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OF

THE MAJOR WAR CRIMINALS

BEFORE

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PROCEEDINGS

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ONE HUNDRED AND TWENTIETH DAY

Friday, 3 May 1946

Morning Session

[The Defendant Schacht resumed the stand.]

THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence): The Tribunal will sit in open session tomorrow at 10 o'clock and will adjourn into closed session at 12 noon.

Mr. Justice Jackson and Defendant Schacht: It is desired on behalf of the interpreters that you should pause if possible after the question has been put to you and if you find it necessary, owing to the condition of the documents with which you are dealing, to read in English or speak in English, to give an adequate pause so that those interpreters who are interpreting from English into other languages can take over the interpretation. Is that clear?

MR. JUSTICE ROBERT H. JACKSON (Chief of Counsel for the United States): I owe an apology constantly to the interpreters. It is hard to overcome the habit of a lifetime.

THE PRESIDENT: It is very difficult.

MR. JUSTICE JACKSON: *[Turning to the defendant.]* Dr. Schacht, by the way, the photograph Number 10 which was shown you yesterday, that was one of the occasions on which you wore the Party Badge which you referred to, was it not?

HJALMAR SCHACHT (Defendant): That may be.

MR. JUSTICE JACKSON: You are quite sure of that, are you not?

SCHACHT: I cannot distinguish it clearly; but it may be, and that would prove that the picture must have been taken after 1937.

MR. JUSTICE JACKSON: That is what I wanted to prove. And as a matter of fact, it was taken after 1941, was it not? As a matter of fact, Bormann did not come to any important official position until after 1941, did he?

SCHACHT: Bormann?

MR. JUSTICE JACKSON: Bormann, yes.

SCHACHT: That I do not know.

MR. JUSTICE JACKSON: Now, if we return to the Four Year Plan which began in 1936, as I understand it you opposed the appointment of Göring to have charge of the Four Year Plan on two grounds: First, you thought that that new plan might interfere with your functions; and secondly, if there were to be a Four Year Plan, you did not think Göring was fit to administer it?

SCHACHT: I do not know what you mean by "opposed." I was not satisfied with it and considered the choice of Göring not the right one for any leading position in economics.

MR. JUSTICE JACKSON: As a matter of fact you have described Göring as a fool in economics, have you not?

SCHACHT: Yes, as one does say such things in a heated conversation.

MR. JUSTICE JACKSON: Or in interrogation?

SCHACHT: Interrogations are also sometimes heated.

MR. JUSTICE JACKSON: Now, very soon Göring began to interfere with your functions, did he not?

SCHACHT: He tried it repeatedly, I believe.

MR. JUSTICE JACKSON: Well, he got away with it too, did he not?

SCHACHT: I do not understand what you mean by "he got away with it."

MR. JUSTICE JACKSON: Well, this American slang is difficult, I admit. I mean he succeeded.

SCHACHT: In July 1937 he had me completely against the wall.

MR. JUSTICE JACKSON: That started over a proposal that he made or a measure that he took with reference to mining?

SCHACHT: Yes.

MR. JUSTICE JACKSON: He also made a speech to some industrialists, did he not?

SCHACHT: I assume that he made several speeches to industrialists. I do not know to which one you are referring. I presume you mean the speech in December 1936 or so.

MR. JUSTICE JACKSON: I am referring to the speech in which you said to us in interrogation that Göring had assembled industrialists and said a lot of foolish things about the economy which you had to refute.

SCHACHT: That was the meeting of 17 December 1936.

MR. JUSTICE JACKSON: And then you wrote to Göring complaining about the mining measures?

SCHACHT: I assume that you mean the letter of 5 August?

MR. JUSTICE JACKSON: Right. That document is Document EC-497, Exhibit USA-775. And in that letter of August 1937 you said this, if I quote you correctly:

"Meanwhile I repeatedly stressed the need of increased exports and actively worked towards that end. The very necessity of bringing our armament up to a certain level as rapidly as possible must place in the foreground the idea of as large returns as possible in foreign exchange and therewith the greatest possible assurance of raw material supplies."

Correct?

SCHACHT: I assume it is.

MR. JUSTICE JACKSON: And you also said this, I believe:

"I have held this view of the economic situation which I have explained above from the first moment of my collaboration."

That was also true, was it not?

SCHACHT: Yes, certainly.

MR. JUSTICE JACKSON: Now, both of those things were true, were they not?

SCHACHT: Yes.

MR. JUSTICE JACKSON: And then you concluded, addressing Göring:

"I ask you to believe me, my dear Prime Minister, that it is far from me to interfere with your policies in any way whatsoever. I offer no opinion, either, as to whether my views, which are not in agreement with your economic policy, are correct or not. I have full sympathy for your activities. I do believe, however, that in a totalitarian state it is wholly impossible to conduct two divergent economic policies."

And that was also true, was it not?

SCHACHT: Yes.

MR. JUSTICE JACKSON: And that was the basis on which you and Göring disagreed so far as policy was concerned?

SCHACHT: So far as what was concerned?—Policy? I do not understand what you mean by policy. I mean the way business was conducted.

MR. JUSTICE JACKSON: Yes.

SCHACHT: Entirely aside from other differences which we had.

MR. JUSTICE JACKSON: These other differences were personal differences. You and Göring did not get along well together?

SCHACHT: On the contrary. Until then we were on very friendly terms with each other.

MR. JUSTICE JACKSON: Oh, were you?

SCHACHT: Oh, yes.

MR. JUSTICE JACKSON: So the beginning of your differences with Göring was the struggle as to which of you would dominate the preparations for war?

SCHACHT: No.

MR. JUSTICE JACKSON: Well . . .

SCHACHT: I have to deny that absolutely. The differences . . .

MR. JUSTICE JACKSON: Do you want to say anything more about it?

SCHACHT: The differences which led to my resignation resulted from the fact that Göring wanted to assume command over economic policies while I was to have the responsibility for them. And I was of the opinion that he who assumes responsibility should also have command; and if one has command then he also has to assume the responsibility. That is the formal reason why I asked for my release.

MR. JUSTICE JACKSON: Well now, I turn to your interrogation of 16 October 1945, Document 3728-PS, Exhibit USA-636, and ask if you did not give the following testimony:

> "After Göring had taken over the Four Year Plan—and I must say after he had taken over the control of Devisen, already since April 1936—but still more after the Four Year Plan in September 1936, he had always tried to get control of the whole economic policy. One of the objects, of course, was the post of Plenipotentiary for War Economy in the case of war, being only too anxious to get everything into his hands, he tried to get that away from me. Certainly as long as I had the position of Minister of Economics, I objected to that . . ."

You made that statement?

SCHACHT: I believe that is correct.

MR. JUSTICE JACKSON: Yes, and then you describe your last visit with him after Luther for two months had endeavored to unite Göring and yourself.

SCHACHT: That is a mistake; it is Hitler, and not Luther.

MR. JUSTICE JACKSON: Very well.

You described it as follows:

"Then I had a last talk with Göring; and at the end of this talk Göring said, 'But I must have the right to give orders to you.' Then I said, 'Not to me, but to my successor.' I have never taken orders from Göring; and I would never have done it, because he was a fool in economics and I knew something about it, at least.

"Question: 'Well, I gather that was a culminating, progressive, personal business between you and Göring. That seems perfectly obvious.'

"Answer: 'Certainly.' "

Is that correct?

SCHACHT: Yes, certainly.

MR. JUSTICE JACKSON: And then the interrogator went on:

"Let us go into the duties of that job for a moment and see what he was trying to take away from you. There are only two possibilities, as it has been explained to me; if I am wrong, correct me. One would be the preparation for a mobilization, and the other would be the actual taking charge of this in the event of war. Otherwise, the post had no meaning. So the things you resisted his taking away from you, as I see it, were the right to be in charge of the preparation for mobilization and, secondly, the right to control in the event of war.

"Answer: 'Correct.' "

Did you give that testimony?

SCHACHT: Please, Mr. Justice, you are confusing the events in relation to time. The differences with Göring about this so-called Plenipotentiary for War Economy occurred in the winter 1936-37; and the so-called last conversation with Göring which you have just mentioned took place in November 1937. I stated, I believe in January 1937, that I was prepared to turn over the office and the activity as Plenipotentiary for War Economy immediately to Göring. That can be found in the memorandum from the Jodl Diary which has been frequently mentioned here.

At that time the War Ministry, and Blomberg in particular, asked to have me kept in the position of Plenipotentiary for War Economy, since I was the Minister of Economy, as long as I was the Minister of Economy. You can find the correspondence about that, which I think has already been submitted by you to the Tribunal.

MR. JUSTICE JACKSON: Well, all right; I think the dates appear in your testimony. I am not concerned at the moment with the sequence of events; I am concerned with the functions that you were

quarreling over, and which you described in your interrogations. And the questions and answers which I read to you are correct; these are the answers you made at the time, are they not?

SCHACHT: Yes, but I must say the following: If you ask me about these individual phases, it will give an entirely different picture if you do not single out the different periods. Mr. Justice, surely you cannot mention events of January and November in the same breath and then ask me if that is correct. That is not correct.

MR. JUSTICE JACKSON: Well, let us get what is wrong about this, if anything.

When was your last conversation with Göring in which you told him he would give orders to your successor but not to you?

SCHACHT: November 1937.

MR. JUSTICE JACKSON: Now, the question as to the duties of the job has nothing to do with relation to time, has it? That is, the Plenipotentiary for War Economy, the disagreement between you and Göring, and in order to make it perfectly clear I will read this question and answer to you again, and I am not concerned with time; I am concerned with your description of the job.

"Question: 'Let us go into the duties of that job for a moment and see what he was trying to take away from you. Now, there are only two possibilities, as it has been explained to me; if I am wrong, correct me. One would be the preparation for a mobilization, and the other would be the actual taking charge of this in the event of war. Otherwise the post had no meaning. So the things you resisted his taking away from you, as I see it, were the right to be in charge of the preparation for mobilization and, secondly, the right to control in the event of war.' "

And you answered, "correct," did you not?

SCHACHT: This difference . . .

MR. JUSTICE JACKSON: Can you answer me first as to whether you did give that answer to that question, that it was correct?

SCHACHT: Yes, the minutes are correct. And now I should like . . .

MR. JUSTICE JACKSON: All right.

SCHACHT: But now please let me finish.

MR. JUSTICE JACKSON: All right, go ahead with your explanation.

SCHACHT: Yes. Now I wish to say that that disagreement between Göring and myself had absolutely nothing to do with the conversation of November, and that it was not even a disagreement

between Göring and myself. That disagreement which you have just read about occurred in January 1937, but it was not at all a difference of opinion between Göring and myself because I said right away, "Relieve me of the post of Plenipotentiary for War Economy and turn it over to Göring." And the War Ministry, that is, Herr Von Blomberg, protested against this, not I. I was delighted to turn over that office to Göring.

MR. JUSTICE JACKSON: Is there anything in writing about that, Dr. Schacht?

SCHACHT: The documents which you have submitted here. I would like to ask my counsel to look for these documents and to present them during the re-examination. They have been submitted by the Prosecution.

MR. JUSTICE JACKSON: Now, is it not a fact that your controversy with Göring was a controversy of a personal character, between you and him, for control and not a controversy as to the question of armament? You both wanted to rearm as rapidly as possible.

SCHACHT: I do not want to continue that play with words as to whether it was personal or anything else, Mr. Justice. I had differences with Göring on the subject; and if you ask whether it was on armament, speed, or extent, I reply that I was at greatest odds with Göring in regard to these points.

I have never denied that I wanted to rearm in order to gain equality of position for Germany. I never wanted to rearm any further. Göring wanted to go further; and this is one difference which cannot be overlooked.

MR. JUSTICE JACKSON: Now I do not want to play upon words; and if you say my reference to it as personal is a play upon words, you force me to go into what you told us about Göring.

Is it not a fact that you told Major Tilley this?

"Whereas I have called Hitler an amoral type of person, I can regard Göring only as immoral and criminal. Endowed by nature with a certain geniality which he managed to exploit for his own popularity, he was the most egocentric being imaginable. The assumption of political power was for him only a means to personal enrichment and personal good living. The success of others filled him with envy. His greed knew no bounds. His predilection for jewels, gold and finery, *et cetera,* was unimaginable. He knew no comradeship. Only as long as someone was useful to him did he profess friendship.

"Göring's knowledge in all fields in which a government member should be competent was nil, especially in the economic field. Of all the economic matters which Hitler entrusted to

him in the autumn of 1936 he had not the faintest notion, though he created an immense official apparatus and misused his powers as lord of all economy most outrageously. In his personal appearance he was so theatrical that one could only compare him with Nero. A lady who had tea with his second wife reported that he appeared at this tea in a sort of Roman toga and sandals studded with jewels, his fingers bedecked with innumerable jewelled rings and generally covered with ornaments, his face painted and his lips rouged."

Did you give that statement to Major Tilley?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Yes. And you say you had no personal differences with Göring?

SCHACHT: Mr. Justice, I ask here again that the different periods of time should not be confused. I found out about all these things only later and not at the time of which you speak, that is, the year 1936.

MR. JUSTICE JACKSON: Do you dispute the testimony of Gisevius that in 1935 he told you about Göring's complicity in the whole Gestapo set-up?

SCHACHT: I have testified here that I knew about the Gestapo camps which Göring had set up and said that I was opposed to them. I do not at all deny that.

MR. JUSTICE JACKSON: But your friendship continued despite that knowledge.

SCHACHT: I have never had a friendship with Göring.

MR. JUSTICE JACKSON: Well...

SCHACHT: I surely cannot refuse to work with him, especially as long as I do not know what kind of a man he is.

MR. JUSTICE JACKSON: All right. Let us take up foreign relations, about which you have made a good deal of complaint here. I think you have testified that in 1937 when you were doing all this rearming, you did not envisage any kind of a war, is that right?

SCHACHT: No, what you are saying, Mr. Justice, is not correct. In 1937 I did not do everything to rearm; but from 1935, from the fall of 1935 on, I tried everything possible to slow down the rearming.

MR. JUSTICE JACKSON: All right. I refer you to your interrogation of 16 October 1945, and ask whether you gave these answers to these questions:

"Question: 'Let me ask you then, in 1937 what kind of war did you envisage?'

"Answer: 'I never envisaged a war. We might have been attacked, invaded by somebody; but even that I never expected.'

"Question: 'You did not expect that. Did you expect a possibility of a mobilization and concentration of economic forces in the event of war?'

"Answer: 'In the event of an attack against Germany, certainly.'

"Question: 'Now, putting your mind back to 1937, are you able to say what sort of an attack you were concerned with?'

"Answer: 'I do not know, Sir.'

"Question: 'Did you have thoughts on that at the time?'

"Answer: 'No, never.'

"Question: 'Did you then consider that the contingency of war in 1937 was so remote as to be negligible?'

"Answer: 'Yes.'

"Question: 'You did?'

"Answer: 'Yes.' " (Document Number 3728-PS)

Did you give those answers?

SCHACHT: I have made exactly the same statements as found in this interrogation, here before the Tribunal.

MR. JUSTICE JACKSON: Now, you testified that you tried to divert Hitler's plan which was to move and expand to the East—you tried to divert his attention to colonies instead.

SCHACHT: Yes.

MR. JUSTICE JACKSON: What colonies? You have never specified.

SCHACHT: Our colonies.

MR. JUSTICE JACKSON: And where were they located?

SCHACHT: I assume that you know that exactly as well as I do.

MR. JUSTICE JACKSON: You are the witness, Dr. Schacht. I want to know what you were telling Hitler, not what I know.

SCHACHT: Oh, what I told Hitler? I told Hitler we should try to get back a part of the colonies which belonged to us and the administration of which was taken away from us, so that we could work there.

MR. JUSTICE JACKSON: What colonies?

SCHACHT: I was thinking especially of the African colonies.

MR. JUSTICE JACKSON: And those African colonies you would regard as essential to your plan for the future of Germany?

SCHACHT: Not those, but generally any colonial activity; and of course, at first, I could only limit my colonial desires to our own property.

MR. JUSTICE JACKSON: And your property, as you call it, was the African colonies?

SCHACHT: Not I personally called them that. That is what the Treaty of Versailles calls them—"our property."

MR. JUSTICE JACKSON: Any way you wish it, you wanted the colonies you are talking about.

SCHACHT: Yes.

MR. JUSTICE JACKSON: You considered that the possession and exploitation of colonies was necessary to the sort of Germany that you had in mind creating?

SCHACHT: If you would replace the word "exploitation" by "development," I believe there will be no misunderstanding, and to that extent I agree with you completely.

MR. JUSTICE JACKSON: Well, by "development" you mean trading, and I suppose you expected to make a profit out of trade?

SCHACHT: No, not only "trade" but "developing the natural resources" or the economic possibilities of the colonies.

MR. JUSTICE JACKSON: And it was your proposal that Germany should become reliant upon those colonies instead of relying on expansion to the East?

SCHACHT: I considered every kind of expansion within the European continent as sheer folly.

MR. JUSTICE JACKSON: But you agreed with Hitler that expansion, either colonial or to the East, was a necessary condition of the kind of Germany you wanted to create.

SCHACHT: No, that I never said. I told him it was nonsense to undertake anything toward the East. Only colonial development could be considered.

MR. JUSTICE JACKSON: And you proposed as a matter of policy that Germany's development should depend on colonies with which there was no overland trade route to Germany and which, as you knew, would require a naval power to protect them.

SCHACHT: I do not think that at all—how do you get that idea?

MR. JUSTICE JACKSON: Well, you do not get to Africa overland, do you? You have to go by water at some point, do you not?

SCHACHT: You can go by air.

MR. JUSTICE JACKSON: What was your trade route? You were thinking only of air developments?

SCHACHT: No, no. I thought of ships also.

MR. JUSTICE JACKSON: Yes. And Germany was not then a naval power?

SCHACHT: I believe we had a merchant marine which was quite considerable.

MR. JUSTICE JACKSON: Did your colonial plan involve rearmament by way of making Germany a naval power to protect the trade routes to the colonies that you were proposing?

SCHACHT: Not in the least.

MR. JUSTICE JACKSON: Then your plan was to leave the trade route unprotected?

SCHACHT: Oh, no. I believed that international law would be sufficient protection.

MR. JUSTICE JACKSON: Well, that is what you disagreed with Hitler about.

SCHACHT: We never spoke about that.

MR. JUSTICE JACKSON: Well, in any event he rejected your plan for colonial developments?

SCHACHT: Oh, no. I have explained here that upon my urgent request he gave me the order in summer 1936 to take up these colonial matters.

MR. JUSTICE JACKSON: Did you not give these answers in your interrogation, Dr. Schacht?

"Question: 'In other words, at the time of your talks with Hitler in 1931 and 1932 concerning colonial policy, you did not find him, shall we say, enthusiastic about the possibility?'

"Answer: 'Neither enthusiastic nor very much interested.'

"Question: 'But he expressed to you what his views were alternatively to the possibility of obtaining colonies?'

"Answer: 'No, we did not go into other alternatives.' "

Did you give those answers?

SCHACHT: Certainly.

MR. JUSTICE JACKSON: Now, after the Fritsch affair, at least, you knew that Hitler was not intent upon preserving the peace of Europe by all possible means.

SCHACHT: Yes, I had my doubts.

MR. JUSTICE JACKSON: And after the Austrian Anschluss you knew that the Wehrmacht was an important factor in his Eastern policy?

SCHACHT: Well, you may express it that way. I do not know exactly what you mean by it.

MR. JUSTICE JACKSON: Well, do not answer anything if you do not know what I mean, because we will make it clear as we go along. Except for the suggestion of colonies you proposed no other alternative to his plan of expansion to the East?

SCHACHT: No.

MR. JUSTICE JACKSON: Never at any Cabinet meeting or elsewhere did you propose any other alternative?

SCHACHT: No.

MR. JUSTICE JACKSON: Now, as to the move into Austria, I think you gave these answers:

"Question: 'Actually Hitler did not use the precise method that you say you favored?'

"Answer: 'Not at all.'

"Question: 'Did you favor the method that he did employ?'

"Answer: 'Not at all, Sir.'

"Question: 'What was there in his method that you did not like?'

"Answer: 'Oh, it was simply overrunning, just taking the Austrians over the head—or what do you call it? It was force, and I have never been in favor of such force.' "

Did you give those answers?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Now, you have made considerable complaint here that foreigners did not come to your support at various times in your efforts to block Hitler, have you not?

SCHACHT: Certainly.

MR. JUSTICE JACKSON: You knew at the time of the Austrian Anschluss the attitude of the United States towards the Nazi regime, as expressed by President Roosevelt, did you not?

SCHACHT: Yes.

MR. JUSTICE JACKSON: And you knew of his speech suggesting that the Nazi menace ought to be quarantined to prevent its spread?

SCHACHT: I do not remember; but I certainly must have read it at that time, if it was published in Germany, as I assume it was.

MR. JUSTICE JACKSON: Goebbels let loose a campaign of attack on the President as a result of it, did he not?

SCHACHT: I assume I read that.

MR. JUSTICE JACKSON: As a matter of fact, you joined in the attack on foreigners who were criticizing the methods, did you not?

SCHACHT: When and where? What attacks?

MR. JUSTICE JACKSON: All right. After the Austrian Anschluss, when force was used, with your disapproval, you immediately went in and took over the Austrian National Bank, did you not?

SCHACHT: That was my duty.

MR. JUSTICE JACKSON: Yes. Well, you did it.

SCHACHT: Of course.

MR. JUSTICE JACKSON: And you liquidated it for the account of the Reich.

SCHACHT: Not liquidated; I merged it, amalgamated it.

MR. JUSTICE JACKSON: I beg your pardon?

SCHACHT: Amalgamated.

MR. JUSTICE JACKSON: Amalgamated it. And you took over the personnel?

SCHACHT: Everything.

MR. JUSTICE JACKSON: Yes. And the decree doing so was signed by you.

SCHACHT: Certainly.

MR. JUSTICE JACKSON: Yes. And you called the employees together on 21 March 1938.

SCHACHT: Yes.

MR. JUSTICE JACKSON: And made a speech to them.

SCHACHT: Yes.

MR. JUSTICE JACKSON: And did you say the following among other things . . .

SCHACHT: Certainly.

MR. JUSTICE JACKSON: Well, you have not heard it yet.

SCHACHT: Yes, I heard it during the case of the Prosecution.

MR. JUSTICE JACKSON: Well, I would like to quote some of it to you and remind you of it.

> "I think it is quite useful if we recall these things to our mind in order to expose all the sanctimonious hypocrisy exuding from the foreign press. Thank God, these things could after all not hinder the great German people on their way, for Adolf Hitler has created a communion of German will and German thought. He has bolstered it up with the newly strengthened Wehrmacht, and he has thereby given the external aspect to the inner union between Germany and Austria.

"I am known for sometimes expressing thoughts which give offense; nor would I care to depart from this custom today."

"Hilarity" is noted at this point in your speech.

"I know that there are even here in this country a few people —I believe they are not too numerous—who find fault with the events of the last few days. But nobody, I believe, doubts the goal; and it should be said to all hecklers that you cannot satisfy everybody. There are those who say they would have done it in some other way, perhaps, but strange to say they did not do it"—and in parentheses the word "hilarity" appears again. Continuing with your speech—"it was done by our Adolf Hitler (Long, continued applause); and if there is still something left to be improved, then those hecklers should try to bring about these improvements from within the German Reich and the German community and not disturb it from without." (Document EC-297)

Did you use that language?

SCHACHT: Yes.

MR. JUSTICE JACKSON: In other words, you publicly ridiculed those who were complaining of the methods, did you not?

SCHACHT: If that is the way you see it.

MR. JUSTICE JACKSON: Then you also, in addressing the personnel of the Austrian National Bank, which you were taking over, said this:

"I consider it completely impossible that even a single person will find a future with us who is not wholeheartedly for Adolf Hitler. (Loud, continued applause; shouts of 'Sieg Heil')."

Continuing with the speech:

"Whoever does not do so had better withdraw from our circle of his own accord. (Loud applause)."

Is that what happened?

SCHACHT: Yes, they all agreed, surprisingly.

MR. JUSTICE JACKSON: Now, had the Reichsbank before 1933 and 1934 been a political institution?

SCHACHT: No.

MR. JUSTICE JACKSON: Had politics been in the Reichsbank?

SCHACHT: Never.

MR. JUSTICE JACKSON: Well, on this day, speaking to its employees, you said this, did you not?

"The Reichsbank will always be nothing but National Socialist, or I shall cease to be its manager. (Heavy, protracted applause)."

Did that happen?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Now, Sir, you have said that you never took the oath to Hitler.

SCHACHT: Yes.

MR. JUSTICE JACKSON: I ask you if this is what you, as head of the Reichsbank, required of the employees whom you were taking over in Austria; and I quote:

"Now I shall ask you to rise. (The audience rises.) Today we pledge allegiance to the great Reichsbank family, to the great German community; we pledge allegiance to our newly arisen, powerful Greater German Reich, and we sum up all these sentiments in the allegiance to the man who has brought about all this transformation. I ask you to raise your hands and to repeat after me:

"I swear that I will be faithful and obedient to the Führer of the German Reich and the German people, Adolf Hitler, and will perform my duties conscientiously and selflessly. (The audience takes the pledge with uplifted hands.)

"You have taken this pledge. A bad fellow he who breaks it. To our Führer a triple 'Sieg Heil'."

Is that a correct representation of what took place?

SCHACHT: The oath is the prescribed civil service oath and it is quite in accordance with what I said here yesterday, that the oath is made to the head of the state just as I have stated before too: "We stand united before the German people"—I do not know exactly what the German expression is. I hear your English version here. That oath is exactly the same.

MR. JUSTICE JACKSON: I have referred to Document EC-297, Exhibit USA-632, in the course of this. That is the exhibit I have been using.

So you say that was to an impersonal head of state and not to Adolf Hitler?

SCHACHT: Yes. One obviously cannot take an oath to an idea. Therefore, one has to use a person. But I said yesterday that I did not take an oath to Herr Ebert or to Herr Hindenburg or to the Kaiser, but to the head of State as representative of the people.

MR. JUSTICE JACKSON: You told your employees that all of the sentiments of this oath were summed up in the allegiance to the man, did you not?

SCHACHT: No.

MR. JUSTICE JACKSON: Is that not what you said?

SCHACHT: No, that is not correct. If you read it again, it does not say to the man but to the leader as the head of State.

MR. JUSTICE JACKSON: Well, no matter what you took the oath to . . .

SCHACHT: *[Interposing.]* Excuse me. There is a very great difference.

MR. JUSTICE JACKSON: Well, we will get to that. Whatever you took the oath to, you were breaking it at the very time, were you not?

SCHACHT: No. I never broke the oath to this man as representative of the German people, but I broke my oath when I found out that that man was a criminal.

MR. JUSTICE JACKSON: When you plotted to cause his death?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Do you want to explain to the Tribunal how you could cause the death of Adolf Hitler without also causing the death of the head of the German State?

SCHACHT: There is no difference because unfortunately that man was the head of the German nation.

MR. JUSTICE JACKSON: You say you never broke the oath?

SCHACHT: I do not know what you want to express by that. Certainly I did not keep the oath which I took to Hitler because Hitler unfortunately was a criminal, a perjurer, and there was no true head of State. I do not know what you mean by "breaking the oath," but I did not keep my oath to him and I am proud of it.

MR. JUSTICE JACKSON: So you were administering to your employees an oath which you at that moment were breaking and intended to break?

SCHACHT: Again you confuse different periods of time, Mr. Justice. That was in March 1938 when as you have heard me say before, I still was in doubt, and therefore it was not clear to me yet what kind of a man Hitler was. Only when in the course of 1938 I observed that Hitler was possibly walking into a war, did I break the oath.

MR. JUSTICE JACKSON: When did you find him walking into a war?

SCHACHT: In the course of 1938 when, judging from the events, I gradually became convinced that Hitler might steer into a war, that is to say, intentionally. Then only did I break my oath.

MR. JUSTICE JACKSON: Well, you stated yesterday that you started to sabotage the government in 1936 and 1937.

SCHACHT: Yes, because I did not want excessive armament.

MR. JUSTICE JACKSON: And we find you administering an oath to the employees to be faithful and obedient.

Now, I ask you if you did not make this statement in interrogation:

"Question: 'But you make this statement at the end of the oath, after everybody has raised his hand and made his oath. Did you say the following, "You have taken this pledge. A bad fellow he who breaks it"?'

"Answer: 'Yes, I agree to that and I must say that I myself broke it.'

"Question: 'Do you also say that at the time that you urged this upon the audience, that you already were breaking it?'

"Answer: 'I am sorry to say that within my soul I felt very shaken in my loyalty already at that time, but I hoped that things would turn out well at the end.' "

SCHACHT: I am glad that you quote this because it confirms exactly what I have just said; that I was in a state of doubt and that I still had hope that everything would come out all right; that is to say, that Hitler would develop in the right direction. So it confirms exactly what I have just said.

MR. JUSTICE JACKSON: Well, I am sure we want to be helpful to each other, Dr. Schacht.

SCHACHT: I am convinced that both of us are trying to find the truth, Mr. Justice.

MR. JUSTICE JACKSON: Now, you remained in the Reichsbank after this Anschluss, of course?

SCHACHT: Yes.

MR. JUSTICE JACKSON: And you remained there until later—until January 1939, if that is the date?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Now, after this Anschluss, the mefo bills which had been issued began to become due, did they not, in 1938 and 1939?

SCHACHT: No, the maturity date of the first mefo bills must have been at the earliest in the spring of 1939. They had all been issued for 5 years and I assume that the first mefo bills were issued in the spring of 1934, so that the first mefo bills became due in the spring of 1939.

MR. JUSTICE JACKSON: Now, this is the question and the answer. Correct me if I am wrong.

"Question: 'Well, did you in the Reichsbank utilize funds which were available? Let me put it this way: As these mefo bills became due, what did you do about them?'

"Answer: 'I asked the Minister of Finance whether he could repay them, because after 5 years he had to repay them, some in 1938 or 1939, I think. The first mefo bills would have become due for repayment and of course he said, "I cannot." ' "

You had that conversation with the Finance Minister while you were still President of the Reichsbank?

SCHACHT: Mr. Justice, I said that throughout our financial dealings we became somewhat worried as to whether we would get our bills paid back or not. I have already explained to the Tribunal that in the second half of 1938 the Finance Minister got into difficulties and he came to me in order again to borrow money. Thereupon I said to him, "Listen, in what kind of a situation are you anyway for you will soon have to repay the first mefo bills to us. Are you not prepared for that?" And now it turned out, that was in the fall of 1938, that the Reich Finance Minister had done nothing whatever to fulfill his obligation to meet payment of the mefo bills; and that, of course, in the fall of 1938, made for exceedingly strained relations with the Reich Finance Minister, that is, between the Reichsbank and the Reich Finance Minister.

MR. JUSTICE JACKSON: Now, taxes did not yield any sufficient revenue to discharge those bills, did they?

SCHACHT: Yes; I explained already yesterday that the risk which was taken in the mefo bills, which I have admitted from the very beginning, was not really a risk if a reasonable financial policy were followed; that is, if from 1938 on, further armament had not continued and additional foolish expenditures not been made, but if instead, the money accruing from taxes and bonds had been used for meeting the payment of the mefo bills.

MR. JUSTICE JACKSON: All I am asking you at the present moment, Dr. Schacht, is whether these bills could not have been paid out of the revenue from taxes.

SCHACHT: Surely. Yes.

MR. JUSTICE JACKSON: They could have?

SCHACHT: Of course, but that was the surprising thing, they were not repaid; the money was used to continue rearming. May I add something in order to give you further information?

MR. JUSTICE JACKSON: No, I am really not concerned with the financing; I am merely concerned with what kind of a mess you were in at the time you resigned.

SCHACHT: Yes.

MR. JUSTICE JACKSON: The mefo bills were due and could not be paid?

SCHACHT: Shortly.

MR. JUSTICE JACKSON: They were shortly to mature?

SCHACHT: Yes, but they could be paid. That is a mistake if you say that they could not be paid.

MR. JUSTICE JACKSON: Well, they could not be paid out of the current year's taxes, could they?

SCHACHT: Yes, indeed. You are not interested and do not want me to tell you, but I am quite ready to explain it.

MR. JUSTICE JACKSON: Well, you have explained it pretty well to us.

SCHACHT: You have just told me you were not interested.

MR. JUSTICE JACKSON: Your subscriptions to the Fourth Reich Loan of 1938 had produced unsatisfactory results, had they not?

SCHACHT: They were hardly pleasing. The capital market was not good.

MR. JUSTICE JACKSON: And you have reported on the loan that there had been a shortage in the public subscription? And the result had been unsatisfactory?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Now, did you not make this answer to the interrogator's question:

"Question: 'But I am asking you whether during that period from 1 April 1938 to January 1939 you did not continue to finance armaments?'

"Answer: 'Sir, otherwise these mefo bills had to be refunded by the Reich, which they could not be, because the Reich had no money to do it; and I could not procure any money for refunding because that would have had to come from taxes or loans. So I had to continue to carry these mefo bills and that, of course, I did.' "

Did you give that answer?

SCHACHT: Yes, that was quite in order—kindly let me speak, would you not—because the Finance Minister did not make his funds available for the repayment of the mefo bills, but instead gave them for armaments. If he had used these funds to pay the mefo bills, everything would have been all right.

MR. JUSTICE JACKSON: And you carried the mefo bills which let him use current revenues to continue the plans of rearmament after 1938, did you not?

SCHACHT: Mr. Justice, this was the situation. A large part of the mefo bills was already on the financial and capital market. Now, when that market was too heavily burdened by the government, then the people brought in the mefo bills to the Reichsbank, for the Reichsbank had promised to accept them. That, precisely, was the great obstruction to my policy. The Reich Finance Minister financed the armament instead of honoring the mefo bills as he had promised.

MR. JUSTICE JACKSON: Now, it was under those circumstances that you took a position which would result in your retirement from the Reichsbank?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Now we come to Czechoslovakia. Did you favor the policy of acquiring the Sudetenland by threat of resort to arms?

SCHACHT: Not at all.

MR. JUSTICE JACKSON: I think you characterized the manner in which the Sudetenland was acquired as wrong and reprehensible.

SCHACHT: I do not know when I could have done that. I said that the Allies, by their policy, gave the Sudetenland to Hitler, whereas I always had expected only that the Sudeten Germans would be given autonomy.

MR. JUSTICE JACKSON: Then you approved of Hitler's policy in handling the Sudetenland situation? Is that what you want to be understood as saying?

SCHACHT: I never knew that Hitler, beyond autonomy, demanded anything else.

MR. JUSTICE JACKSON: Your only criticism of the Czechoslovakian situation relates to the Allies, as I understand you?

SCHACHT: Well, it also applies to the Czechs, maybe to the Germans too; for goodness sake, I do not want to play the judge here.

MR. JUSTICE JACKSON: Well, now on 16 October 1945, in Exhibit USA-636, Document 3728-PS, I ask if you did not make these replies to questions:

"Question: 'Now, I am coming back to the march against Czechoslovakia which resulted in the appeasement policy, Munich, and the cession of the Sudetenland to the Reich.'

"Answer: 'Yes.'

"Question: 'Did you at that time favor the policy of acquiring the Sudetenland?'

"Answer: 'No.'

"Question: 'Did you favor at that time the policy of threatening or menacing the Czechs by force of arms so as to acquire the Sudetenland?'

"Answer: 'No, certainly not.'

"Question: 'Then I ask you, did it strike you at that time, did it come to your consciousness, that the means which Hitler was using for threatening the Czechs was the Wehrmacht and the armament industry?'

"Answer: 'He could not have done it without the Wehrmacht.' "

Did you give those answers?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Continuing:

"Question: 'Did you consider the manner in which he handled the Sudeten question wrong or reprehensible?'

"Answer: 'Yes.'

"Question: 'You did?'

"Answer: 'Yes, Sir.'

"Question: 'And did you have a feeling at that time, looking back on the events that had proceeded and in your own participation in them, that this army which he was using as a threat against Czechoslovakia was at least in part an army of your own creation? Did that ever strike you?'

"Answer: 'I cannot deny that, Sir.' "

SCHACHT: Certainly not.

MR. JUSTICE JACKSON: But here again, you turned in to help Hitler, once he had been successful with it, did you not?

SCHACHT: How can you say such a thing? I certainly did not know that Hitler would use the army in order to threaten other nations.

MR. JUSTICE JACKSON: After he had done it, you turned in and took over the Czech bank, did you not?

SCHACHT: Of course.

MR. JUSTICE JACKSON: Yes. You followed to clean up economically just so far as Hitler got the territory, did you not?

SCHACHT: But I beg your pardon. He did not take it with violence at all. The Allies presented him with the country. The whole thing was settled peacefully.

MR. JUSTICE JACKSON: Well, we have your testimony on the part the Wehrmacht played in it and what part you played in the Wehrmacht.

SCHACHT: Yes, I have never denied that.

MR. JUSTICE JACKSON: No. What I mean is this, referring to your interrogation of 17 October (Exhibit US-616):

"Question: 'Now, after the Sudetenland was taken over by the Munich agreement, did you, as the President of the Reichsbank, do anything about the Sudeten territory?'

"Answer: 'I think we took over the affiliations of the Czech Bank of Issue.'

"Question: 'And you also arranged for the currency conversion, did you not?'

"Answer: 'Yes.' "

That is what you did after this wrong and reprehensible act had been committed by Hitler, did you not?

SCHACHT: It is no "wrong and reprehensible" act "committed" by Hitler, but Hitler received the Sudeten German territory by way of treaty and, of course, the currency and the institute which directed financing had to be amalgamated with this field in Germany. There can be no talk of injustice. I cannot believe that the Allies have put their signature to a piece of injustice.

MR. JUSTICE JACKSON: So you think that everything up to Munich was all right?

SCHACHT: No. I am certainly of a different opinion. There was much injustice.

MR. JUSTICE JACKSON: Were you in this Court when Göring testified to his threat to bomb Prague—"the beautiful city of Prague"?

SCHACHT: Thanks to your invitation, I was here.

MR. JUSTICE JACKSON: Yes. I suppose you approved that use of the force which you had created in the Wehrmacht?

SCHACHT: Disapproved; disapproved under all circumstances.

MR. JUSTICE JACKSON: You did not think that was right dealing, then?

SCHACHT: No, no, that was an atrocious thing.

MR. JUSTICE JACKSON: Well, we have found something we agree on, Doctor. You knew of the invasion of Poland?

SCHACHT: Yes.

MR. JUSTICE JACKSON: You regarded it as an unqualified act of aggression on Hitler's part, did you not?

SCHACHT: Absolutely.

MR. JUSTICE JACKSON: The same was true of the invasion of Luxembourg, was it not?

SCHACHT: Absolutely.

MR. JUSTICE JACKSON: And of Holland?

SCHACHT: Absolutely.

MR. JUSTICE JACKSON: And of Denmark?

SCHACHT: Absolutely.

MR. JUSTICE JACKSON: And of Norway?

SCHACHT: Absolutely.

MR. JUSTICE JACKSON: And of Yugoslavia?

SCHACHT: Absolutely.

MR. JUSTICE JACKSON: And of Russia?

SCHACHT: Absolutely, sir; and you have left out Norway and Belgium.

MR. JUSTICE JACKSON: Yes; well, I got to the end of my paper. The entire course was a course of aggression?

SCHACHT: Absolutely to be condemned.

MR. JUSTICE JACKSON: And the success of that aggression at every step was due to the Wehrmacht which you had so much to do with creating?

SCHACHT: Unfortunately.

MR. JUSTICE JACKSON: Now, I intend to take up another subject and perhaps it would be . . . it is almost recess time.

THE PRESIDENT: We will adjourn now.

[A recess was taken.]

MARSHAL (Colonel Charles W. Mays): If it please the Tribunal, the report is made that Defendant Von Neurath is absent.

MR. JUSTICE JACKSON: Dr. Schacht, in your direct testimony you made reference to a film, which was taken and exhibited in Germany for propaganda purposes, of your demeanor on the occasion of Hitler's return after the fall of France.

SCHACHT: May I correct that? Not I, but my counsel, spoke of this film; and it was not mentioned that it was used for propaganda purposes. My counsel merely said that it had been run in a newsreel, so it probably was shown for about one week.

MR. JUSTICE JACKSON: I will ask to exhibit that film to the Tribunal. It is a very brief film, and the movement in it is very

rapid. There is very little of translation involved in it, but the speed of it is such that for myself I had to see it twice in order to really see what it is.

THE PRESIDENT: Do you want to put it on now?

MR. JUSTICE JACKSON: I would like to put it on now. It will take only a moment, and Dr. Schacht should be placed where he can see it for I want to ask him some questions and *[Turning to the defendant]* particularly I may ask you to identify the persons in it.

I will ask, if I may, to have it shown twice, so that after all has been seen you can once more see it.

THE PRESIDENT: Certainly.

[Moving pictures were then shown.]

MR. JUSTICE JACKSON: I think that I, in mentioning this exhibit which I wish to offer in evidence, spoke of it as a "propaganda film." That was not the language of Dr. Dix. Dr. Dix described it as a "weekly newsreel" and as a "weekly film."

[Turning to the defendant.] While our memory is fresh about that, will you tell the Court as many of the defendants as you recognized present in that picture?

SCHACHT: In glancing at it quickly I could not see exactly who was there. However, I should assume that almost all were present—I say that from memory, not from the film—either in Hitler's retinue or among those who received him.

MR. JUSTICE JACKSON: While you were still President of the Reichsbank and after the action in taking over the Czechoslovakian Bank you made a speech, did you not, on 29 November 1938?

SCHACHT: Yes.

MR. JUSTICE JACKSON: It is Document EC-611, Exhibit USA-622. I am advised that the film became Exhibit USA-835, and before I pass from it I would like to offer the statement as to the personality of Hermann Göring, which is Document 3936-PS, as Exhibit USA-836.

[Turning to the defendant.] In this speech of 29 November 1938, Dr. Schacht, if I am correctly informed—and by the way, it was a public speech was it not?

SCHACHT: Inasmuch as it was made before the German Academy. It was entirely public, and if it passed the censorship it certainly was also mentioned in the papers. It was public; anyone could hear it.

MR. JUSTICE JACKSON: You used this language, did you not?:

"It is possible that no bank of issue in peace times has carried on such a daring credit policy as has the Reichsbank since the seizure of power by National Socialism. With the aid of this credit policy, however, Germany has created an armament second to none, and this armament in turn has made possible our political successes." (Document EC-611)

Is that correct?

SCHACHT: That is absolutely correct, and—would you please mind letting me talk in the future? That is correct and I was very much surprised that it was necessary to do this in order to create justice in the world.

MR. JUSTICE JACKSON: The taking over of Czechoslovakia representing your idea of justice?

SCHACHT: I have already told you that Germany did not "take over Czechoslovakia," but that it was indeed presented to Germany by the Allies on a silver platter.

MR. JUSTICE JACKSON: Are you now saying that that was an act of justice, or are you condemning it? I cannot get your position, Doctor. Just tell us, were you for it? Are you today for it, or against it?

SCHACHT: Against what? Will you please tell me against what and for what?

MR. JUSTICE JACKSON: Against the taking over of the Sudetenland by the method by which it was done.

SCHACHT: I cannot answer your question for the reason that, as I said, it was no "taking over," but was a present. If someone gives me a present, such as this, I accept it gratefully.

MR. JUSTICE JACKSON: Even though it does not belong to them to give?

SCHACHT: Well, that I must naturally leave up to the donor.

MR. JUSTICE JACKSON: And although it was taken at the point of a gun, you still would accept the gift?

SCHACHT: No, it was not taken "at the point of a gun."

MR. JUSTICE JACKSON: Well, we will pass on to your speech. Did you say also:

"Instead of a weak and vacillating government a single, purposeful, energetic personality is ruling today. That is the great miracle which has happened in Germany and which has had its effect in all fields of life and not last in that of economy and finance. There is no German financial miracle. There is only the miracle of the reawakening of German

national consciousness and German discipline, and we owe this miracle to our Führer, Adolf Hitler." (Document EC-611)

Did you say that?

SCHACHT: Certainly. That was what I was so greatly astonished at.

MR. JUSTICE JACKSON: As Minister without Portfolio, what did your Ministry consist of?

SCHACHT: Nothing.

MR. JUSTICE JACKSON: What employees did you have?

SCHACHT: One female secretary.

MR. JUSTICE JACKSON: What space did you occupy?

SCHACHT: Two or three rooms in my own apartment which I had furnished as office rooms.

MR. JUSTICE JACKSON: So the government did not even furnish you an office?

SCHACHT: Yes, they paid me a rental for those rooms.

MR. JUSTICE JACKSON: Oh, and whom did you meet with as Minister without Portfolio?

SCHACHT: I do not understand. Whom I met with?

MR. JUSTICE JACKSON: Well, did you have any meetings? Did you have any official meetings to attend?

SCHACHT: I have stated here repeatedly that, after my retirement from the Reichsbank, I never had a single meeting or conference, official or otherwise.

MR. JUSTICE JACKSON: Did anybody report to you, or did you report to anybody?

SCHACHT: No, no one reported to me, nor did I report to anyone else.

MR. JUSTICE JACKSON: Then I take it that you had no duties whatever in this position?

SCHACHT: Absolutely correct.

MR. JUSTICE JACKSON: And you were Minister without Portfolio, however, at the time that Hitler came back from France, and you attended the reception for him at the railway station? And went to the Reichstag to hear his speech?

SCHACHT: Yes.

MR. JUSTICE JACKSON: Now, notwithstanding your removal as President of the Reichsbank, the government continued to pay you your full salary until the end of 1942, did it not?

SCHACHT: I stated yesterday that that is not correct. I received my salary from the Reichsbank, which was due to me by contract, but a minister's salary was not paid to me. I believe that as Minister I received certain allowances to cover expenses, I cannot say that at the moment; but I did not receive a salary as a Minister.

MR. JUSTICE JACKSON: Well, I will return to your interrogation of 9 October 1945 and ask you whether you gave these answers to these questions on that interrogation:

"Question: 'What salary did you receive as Minister without Portfolio?'

"Answer: 'I could not tell you exactly. I think it was some 24,000 marks, or 20,000 marks. I cannot tell you exactly, but it was accounted on the salary and afterward on the pension which I got from the Reichsbank, so I was not paid twice. I was not paid twice.'

"Question: 'In other words, the salary that you received as Minister without Portfolio during the period you were also President of the Reichsbank was deducted from the Reichsbank?'

"Answer: 'Yes.'

"Question: 'However, after you severed your connection with the Reichsbank in January 1939, did you then receive the whole salary?'

"Answer: 'I got the whole salary because my contract ran until the end of June 1942, I think.'

"Question: 'So you received a full salary until the end of June 1942?'

"Answer: 'Full salary and no extra salary, but from the 1st of July 1942 I got my pension from the Reichsbank, and again the salary of the Ministry was deducted from that, or vice versa. What was higher, I do not know; I got a pension of about 30,000 marks from the Reichsbank.' "

And on 11 July 1945, at Ruskin, you were questioned and gave answers as follows:

"Question: 'What was the date of your contract?'

"Answer: 'From 8 March 1939, 1940, 1941, 1942. Four years. Four years' contract.'

"Question: 'You were really then given a four-year appointment?'

"Answer: 'That is what I told you. After 1942 I got a pension from the Reichsbank.'

"Question: 'What was the amount of your salary and all other income from the Reichsbank?'

"Answer: 'All the income from the Reichsbank, including my fees for representation, amounted to 60,000 marks a year, and the pension is 24,000. You see, I had a short contract but a high pension. As Reich Minister without Portfolio, I had another, I think also 20,000 or 24,000 marks.' "

Now, is that correct?

SCHACHT: The salaries are stated on paper and are correctly cited here and I have indeed claimed that I was paid by one source only. I was asked, "What salary did you receive as Reich Minister?" I stated the amount, but I did not receive it, as it was merely deducted from my Reichsbank salary. And the pension, as I see here, is quoted wrongly in one case. I believe I had only 24,000 marks' pension, while it says here somewhere that it was 30,000 marks. In my own money affairs I am somewhat less exact than in my official money affairs. However, I was paid only once, and that is mainly by the Reichsbank up to—and that also has not been stated here correctly. It was not the end of 1942, but the end of June 1942, that my contract expired. Then the pension began and it too was paid only once. How those two, that is, the Ministry and Reichsbank, arranged it with each other is unknown to me.

MR. JUSTICE JACKSON: Well, you were entitled to a salary and a pension both, and one was offset against the other; is that what you mean? And that arrangement continued as long as you were a part of the regime?

SCHACHT: It is still in effect today. It has nothing to do with the regime. I hope that I shall still receive my pension; how else should I pay my expenses?

MR. JUSTICE JACKSON: Well, they may not be very heavy, Doctor.

When General Beck resigned, he asked you to resign, did he not?

THE PRESIDENT: Just a minute; it is quite unnecessary for anyone present in Court to show his amusement by laughter.

MR. JUSTICE JACKSON: Were you asked to resign when General Beck resigned?

SCHACHT: No, he did not say that.

MR. JUSTICE JACKSON: Have you in mind the testimony given by Gisevius here?

SCHACHT: Yes. It was a mistake on the part of Gisevius.

MR. JUSTICE JACKSON: Oh, well, in any event, when General Beck resigned, it was called sharply to your attention?

SCHACHT: He paid me a visit and told me about it a few days before his retirement. I assume that was about the end of August or the beginning of September of 1938.

MR. JUSTICE JACKSON: And you say that no proposal was made to you at that time that you should resign along with Beck?

SCHACHT: No, nothing was said about that. Beck saw me in my room; he did not mention anything of this sort, and it was not discussed by us.

MR. JUSTICE JACKSON: Did it ever occur to you that resignation would be the appropriate way of expressing your protest against these things which you now say you disapprove?

SCHACHT: No, I do not at all believe that a resignation would have been the means to achieve that which had to be done, and I also regretted it very much that Beck retired. That which happened, Mr. Justice, was caused by an entirely false policy—a policy that partly was forced upon us, and partly, I am sorry to say, was not handled properly by us. In February, Neurath was dismissed. In the fall Beck stepped out; in January 1939 I was dismissed. One after the other was gotten rid of. If it had been possible for our group—if I too may now speak of a group—to carry out a common action, as we hoped for and expected, then that would have been an excellent thing. However, these individual retirements served no purpose whatsoever; at least, they had no success.

MR. JUSTICE JACKSON: You felt that Beck should have stayed at his post and been disloyal to the head of the State?

SCHACHT: Absolutely.

MR. JUSTICE JACKSON: And, in all events, you continued in every public way throughout the period, until the fall of France, to hold yourself out as a part of the government and a part of the regime, did you not?

SCHACHT: Well, I never considered myself a part of the regime exactly, because I was against it. But, of course, ever since the fall of 1938 I worked towards my own retirement, as soon as I saw that Hitler did not stop the rearmament but continued it, and when I became aware that I was powerless to act against it.

MR. JUSTICE JACKSON: Well, when did you start working towards your own retirement?

SCHACHT: Pardon me; I did not understand—to work towards what?

MR. JUSTICE JACKSON: When did you start working towards your own retirement from office.

SCHACHT: After Munich and after we realized that we could no longer expect disarmament or a stopping of rearmament by Hitler and that we could not prevent a continuation of the rearmament; so, within the circles of the Reichsbank Directorate, we began

to discuss this question and to realize that we could not follow the further course of rearmament. That was the last quarter of 1938.

MR. JUSTICE JACKSON: And all of these events of which you disapproved never were of sufficient consequence to cause you to resign and withhold a further use of your name from this regime?

SCHACHT: Until then I had still hoped that I could bring about a change for the better; consequently I accepted all the disadvantages entailed with my remaining in office, even facing the danger that some day I might be judged, as I am today.

MR. JUSTICE JACKSON: You continued to allow your name to be used at home and abroad despite your disapproval, as you say, of the invasion of Poland?

SCHACHT: I never was asked for my permission, and I never gave that permission.

MR. JUSTICE JACKSON: You knew perfectly well, did you not, that your name meant a great deal to this group at any time and that you were one of the only men in this group who had any standing abroad?

SCHACHT: The first part of your statement I already accepted yesterday from you as a compliment. The second part, I believe, is not correct. I believe that several other members of the regime also had a "standing" in foreign countries, some of whom are sitting with me here in the prisoners' dock.

MR. JUSTICE JACKSON: Any foreign observer, who read affairs in Germany, would have obtained the understanding that you were supporting the regime continuously until you were deprived of the cffice of Minister without Portfolio, would they not?

SCHACHT: That is absolutely incorrect. As I have stated repeatedly yesterday and also during my direct examination, I was always referred to in foreign broadcasts as a man who was an opponent of this system, and all my numerous friends and acquaintances in foreign countries knew that I was against this system and worked against it. And if any journalist can be mentioned to me today who did not know this, then he does not know his business.

MR. JUSTICE JACKSON: Oh, do you refer to the letter which you wrote to the New York banker Leon . . .?

SCHACHT: Leon Fraser.

MR. JUSTICE JACKSON: Now, at the time you sent that letter to Switzerland, there was a diplomatic representative of the United States in Berlin, was there not?

SCHACHT: Yes.

MR. JUSTICE JACKSON: And you knew he had a pouch communication at least once a week and usually once a day with Washington?

SCHACHT: Yes, I did not know it, but I assumed it.

MR. JUSTICE JACKSON: And, if you wanted to communicate with the Government of the United States or with an official of the United States, you might have communicated through the regular channels?

SCHACHT: I did not desire to communicate with the American Government or with an American official. I merely desired to re-establish my connection with a friend who had invited me in January to come to the United States, and I made reference to this previous correspondence between him and me in January.

MR. JUSTICE JACKSON: That disposes of the Fraser matter then.

Now, Dr. Schacht, while you were Minister without Portfolio, aggressive wars were instituted, according to your testimony, against Poland, against Denmark and Norway in April of 1940, against Holland and Belgium in May of 1940; in June there was the French armistice and surrender; in September of 1940 there was the German-Japanese-Italian-Tripartite Pact; in April of 1941 there was an attack on Yugoslavia and Greece, which you say was aggressive; in June of 1941 there was the invasion of Soviet Russia, which you say was aggressive; on 7 December 1941 Japan attacked Pearl Harbor, and after the attack declared war on the United States; on 8 December 1941 the United States declared war on Japan, but not on Germany; on 11 December 1941, Germany and Italy declared war on the United States; and all of these things happened in the foreign field and you kept your position as Minister without Portfolio under the Hitler Government, did you not?

SCHACHT: Mr. Justice . . .

MR. JUSTICE JACKSON: Did you not and is that not a fact?

SCHACHT: Yes, and I wish to add something to this. From dozens of witnesses who have testified here, and from myself, you have heard again and again that it was impossible unilaterally to retire from this office because, if I was put in as a minister by the head of a government, I could also be retired only with his signature. You have also been told that at various times I attempted to rid myself of this ministerial office. Besides the witnesses' testimony from countless others, including Americans, to the effect that it was well known that Hitler did not permit anyone to retire from office without his permission. And now you charge me with having remained. I did not remain for my pleasure, but I remained because

I could not have retired from the Ministry without making a big row. And almost constantly, I should say, I tried to have this row until finally in January 1943 I succeeded; and I was able to disappear from office, not without danger to my life.

MR. JUSTICE JACKSON: Well, I will deal with your explanation later. I am now getting the facts.

You did not have an open break with Hitler, so that you were not entirely out of office until after the German offensive broke down in Russia and the German armies were in retreat and until after the Allies had landed in Africa, did you?

SCHACHT: The letter by which I brought about the last successful row is dated 30 November 1942. The row and its success dates from 21 January 1943, because Hitler and Göring and whoever else participated in discussing it, needed 7 weeks to make up their minds about the consequence of my letter.

MR. JUSTICE JACKSON: Then by your letter it plainly shows that you thought the ship was sinking, was it not; that means that the war was lost?

SCHACHT: My oral and written declarations from former times have already shown this. I have spoken here also about this. I have testified on the letter to Ribbentrop and Funk; I have presented a number of facts here which prove that I never believed in the possibility of a German victory. And my disappearance from office has nothing whatsoever to do with all these questions.

MR. JUSTICE JACKSON: Now, meanwhile, while you were remaining as Minister without Portfolio because you thought it might be dangerous to resign, you were encouraging the generals in the army to commit treason against the head of the State, were you not?

SCHACHT: Yes, and I should like now to make an additional statement to this. It was not because of threatening danger to my life that I could not resign earlier. For I was not afraid of endangering my life because I was used to that ever since 1937, having constantly been exposed to the arbitrariness of the Party and its heads.

Your question as to whether I tried to turn a number of generals to high treason, I answer in the affirmative.

MR. JUSTICE JACKSON: And you also tried to get assassins to assassinate Hitler, did you not?

SCHACHT: In 1938 when I made my first attempt, I was not thinking as yet of an assassination of Hitler. However, I must admit that later I said if it could not be done any other way, we would have to kill the man, if possible.

MR. JUSTICE JACKSON: Did you say, "We will have to kill him," or did you say, "Somebody else will have to kill him," Dr. Schacht?

SCHACHT: If I had had the opportunity I would have killed him, I myself. I beg you therefore not to summon me before a German court for attempted murder because in that sense I am, of course, guilty.

MR. JUSTICE JACKSON: Well, now, whatever your activities, they were never sufficiently open so that the foreign files in France, which you say were searched by the Gestapo, had an inkling of it, were they?

SCHACHT: Yes, I could not announce this matter in advance in the newspapers.

MR. JUSTICE JACKSON: And the Gestapo, with all its searching of you, never was in a position to put you under arrest until after the 20 July attack on Hitler's life?

SCHACHT: They could have put me under arrest much earlier than that if they had been a little smarter; but that seems to be a strange attribute of any police force.

MR. JUSTICE JACKSON: And it was not until 1943 that the Hitler regime dismissed you? Until that time apparently they believed that you were doing them more good than harm?

SCHACHT: I do not know what they believed at that time, hence I ask you not to question me about that. You will have to ask somebody from the regime; you still have enough people here.

MR. JUSTICE JACKSON: You have now contended that you knew about the plot of 20 July on Hitler's life?

SCHACHT: I knew about it.

MR. JUSTICE JACKSON: You knew that Gisevius says you did not know about it?

SCHACHT: I already stated yesterday that I was informed not only of Goerdeler's efforts but that I was thoroughly informed by General Lindemann, and the evidence of Colonel Gronau has been read here. I also stated that I did not inform my friends about this, because there was a mutual agreement between us that we should not tell anyone anything which might bring him into an embarrassing situation in case he were tortured by the Gestapo.

MR. JUSTICE JACKSON: Do you recall that Gisevius said that there were only three civilians that knew about that plot which was carefully kept within military personnel?

SCHACHT: You see that even Gisevius was not informed on every detail. Naturally, he cannot testify to more than what he knew.

MR. JUSTICE JACKSON: And so, Dr. Schacht, we are to weigh your testimony in the light of the fact that you preferred, over a long period of time, a course of sabotage of your government's policy by treason against the head of the State, rather than open resignation from his cabinet?

SCHACHT: You constantly refer to my resignation. I have told you and proven that no resignation was possible. Consequently your conclusion is wrong.

MR. JUSTICE JACKSON: All right! Now let us see. In your interrogation on 16 October 1945, Exhibit USA-636, some questions were asked you about the generals of the Army, and I ask you if you were not asked these questions and if you did not give these answers:

"Question: 'I say, suppose you were Chief of the General Staff and Hitler decided to attack Austria, would you say you had the right to withdraw?'

"Answer: 'I would have said, "Withdraw me, Sir." '

"Question: 'You would have said that?'

"Answer: 'Yes.'

"Question: 'So you take the position that any official could at any time withdraw if he thought that the moral obligation was such that he felt he could not go on?'

"Answer: 'Quite.'

"Question: 'In other words, you feel that the members of the General Staff of the Wehrmacht who were responsible for carrying into execution Hitler's plan are equally guilty with him?'

"Answer: 'That is a very hard question you put to me, Sir, and I answer, "yes".' "

You gave those answers, did you not? Did you give those answers?

SCHACHT: Yes, and I should like to give an explanation of this, if the Tribunal permits it. If Hitler ever had given me an immoral order, I should have refused to execute it. That is what I said about the generals also, and I uphold this statement which you have just read.

MR. JUSTICE JACKSON: I am through with him, Your Honor, except that I would like to note the exhibit numbers. The petition to Hindenburg referred to yesterday is 3901-PS, and will become Exhibit USA-837. The Von Blomberg interrogation of October 1945 is Exhibit USA-838.

DR. HANS LATERNSER: (Counsel for General Staff and High Command of the German Armed Forces): Mr. President, I request

that the statement of the Defendant Schacht insofar as it was cited and becomes part of the minutes be stricken from the record. The question, as I understood it, was whether he considered the General Staff to be just as guilty as Hitler. This question was answered in the affirmative by the Defendant Schacht in this examination. The question and the answer—the question to begin with is inadmissible and likewise the answer because a witness cannot pass judgment on this. That is the task of the Court. And for this reason I request that this testimony be stricken from the record.

MR. JUSTICE JACKSON: May it please the Tribunal, I do not, of course, offer this opinion of Schacht's as evidence against the General Staff or against any individual soldier on trial. The evidence, I think, was as to the credibility of Schacht and as to his position. I do not think that his opinion regarding the guilt of anybody else would be evidence against that other person; I think that his opinion on this matter is evidence against himself in the matter of credibility.

THE PRESIDENT: Yes, Dr. Dix.

DR. RUDOLF DIX (Counsel for Defendant Schacht): The question by Justice Jackson was not whether Schacht considered the generals guilty, but the question was whether it was correct that Schacht, in an interrogation previous to the Trial, had given certain answers to certain questions. In other words, it was a question about an actual occurrence which took place in the past and not a question about an opinion or a judgment which he was to give here. As Schacht's counsel, I am not interested in this passage being stricken from the record, except to the extent that these words remain: "I, Schacht, would never have executed an immoral order and an immoral demand by Hitler." So far as the rest of this answer of Schacht is concerned I, as his defense counsel, declare that it is a matter of indifference to me.

DR. LATERNSER: Mr. President, after the declaration of Justice Jackson, I withdraw my objection.

MAJOR GENERAL G. A. ALEXANDROV (Assistant Prosecutor for the U.S.S.R.): Mr. President, may I begin my cross-examination?

THE PRESIDENT: Yes.

GEN. ALEXANDROV: Defendant Schacht, when answering the questions put to you by your counsel, you informed us of the circumstances under which you first became acquainted with Hitler and Göring. You even remembered a detail such as the pea soup with lard which was served for supper at Göring's house.

What I am interested in now are some other particulars, rather more relevant to the case, of your relations with Hitler and Göring.

Tell me, on whose initiative did your first meeting with Hitler and Göring take place?

SCHACHT: I have already stated that my friend, Bank Director Von Stauss, invited me to an evening in his home so that I might meet Göring there. The meeting with Hitler then took place when Göring asked me to come to his home—that is, Göring's home—to meet Hitler.

GEN. ALEXANDROV: For what reasons did you, at that time, accept the invitation to meet Hitler and Göring?

SCHACHT: The National Socialist Party at that time was one of the strongest parties in the Reichstag with 108 seats, and the National Socialist movement throughout the country was extremely lively. Consequently, I was more or less interested in making the acquaintance of the leading men of this movement whom up to then I did not know at all.

GEN. ALEXANDROV: But you declared that you were invited by Göring himself. Why did Göring especially invite you?

SCHACHT: Please ask Herr Göring that.

GEN. ALEXANDROV: Did you not ask him yourself?

SCHACHT: Herr Göring wished me to meet Hitler, or Hitler to meet me.

GEN. ALEXANDROV: What for? With what aim in mind?

SCHACHT: That you must ask Herr Göring.

GEN. ALEXANDROV: Do you not think that Hitler and Göring intended—and not unsuccessfully at that—to inveigle you into participating in the fascist movement, knowing that in Germany you were an economist and financier of repute who shared their views?

SCHACHT: I was uninformed about the intentions of these two gentlemen at that time. However, I can imagine that it was just as much a matter of interest for these gentlemen to meet Herr Schacht as it was for me to meet Herr Hitler and Herr Göring.

GEN. ALEXANDROV: Then it was a matter of purely personal interest; or were other considerations involved, of a political nature? You yourself understood that your participation in the fascist movement would be of advantage to Hitler, inasmuch as you were a well-known man in your own country?

SCHACHT: As far as I was concerned, I was only interested in seeing what kind of people they were. What motives these two gentlemen had are unknown to me, as I have already stated. My collaboration in the fascist movement was entirely out of the question, and it was not given . . .

GEN. ALEXANDROV: Tell me, please . . .

SCHACHT: Please let me finish. My collaboration was not given before the July elections of 1932. As I have stated here, the acquaintance was made in January 1931, which was 1 1/2 years before these elections. Throughout these 1 1/2 years no collaboration took place.

GEN. ALEXANDROV: Tell me, was your acquaintance with Hitler and Göring exclusively limited to these meetings, or had you already met them before Hitler came into power?

SCHACHT: Until July 1932 I saw Hitler and Göring, each of them, perhaps once, twice, or three times—I cannot recall that in these 1 1/2 years. But in any case there is no question of any frequent meetings.

GEN. ALEXANDROV: Then, how do you explain your letter to Hitler of 29 August 1932 in which you offered your services to Hitler? You remember this letter?

SCHACHT: Yes.

GEN. ALEXANDROV: How do you explain it?

SCHACHT: I have spoken about this repeatedly. Will you be so kind as to read it in the record?

GEN. ALEXANDROV: Please repeat it once more, briefly.

THE PRESIDENT: If he has been over it once, that is sufficient.

GEN. ALEXANDROV: When, and by whom were you first invited to participate in the future Hitlerite Government and promised the post of President of the Reichsbank?

SCHACHT: The President of the Reichsbank did not hold a position in the government, but was a high official outside the government. The first time that there was any talk in my presence about this post was on 30 January 1933, when I accidentally ran into Göring in the lobby of the Kaiserhof Hotel, and he said to me, "Ah, there comes our future President of the Reichsbank."

GEN. ALEXANDROV: When answering the questions of your counsel, you declared that the fascist theory of race supremacy was sheer nonsense, that the fascist ideology was no ideology at all, that you were opposed to the solution of the Lebensraum problem by the seizure of new territories, that you were opposed to the Leadership Principle within the Fascist Party and even made a speech on this subject in the Academy of German Law, and that you were opposed to the fascist policy of exterminating the Jews.

Is this right? Did you say this when answering the questions put by your counsel?

SCHACHT: Yes, we both heard it here.

GEN. ALEXANDROV: Well, then tell me, what led you to fascism and to co-operation with Hitler?

SCHACHT: Nothing at all led me to fascism; I have never been a fascist.

GEN. ALEXANDROV: Then what induced you to co-operate with Hitler since you had adopted a negative attitude toward his theories and the theories of German fascism?

THE PRESIDENT: General Alexandrov, he has told us what he says led him to co-operate with Hitler. I think you must have heard him.

GEN. ALEXANDROV: But it did, in fact, take place?

[Turning to the defendant.] In reply to a question by your counsel as to why you did not emigrate, you stated that you did not wish to be a simple martyr. Tell me, did you not know the fate which befell Germany's outstanding personalities, who held democratic and progressive ideas when Hitler came to power? Do you know that they were all exiled or sent to concentration camps?

SCHACHT: You are confusing things here. I did not answer that I did not want to be a martyr to the question of whether I wanted to emigrate; but I said, "Emigrants—that is, voluntary emigrants—never served their country," and I did not want to save my own life, but I wanted to continue to work for the welfare of my country.

The martyr point was in connection with a question following, as to whether I expected any good to have resulted for my country if I had died as a martyr. To that I replied, "Martyrs serve their country only if their sacrifice becomes known."

GEN. ALEXANDROV: You related it somewhat differently. I shall, nevertheless, repeat my question.

THE PRESIDENT: I would be very grateful if you would repeat this question.

GEN. ALEXANDROV: Do you know the fate which befell the foremost men of Germany, men who held progressive and democratic ideas when Hitler came to power? You know that all these people were either exiled or sent to concentration camps?

SCHACHT: I expressly stated here that when I spoke of emigrants I meant those who were in exile, who did not leave the country under compulsion but left voluntarily—those are the ones I was speaking about. The individual fates of the others are not known to me. If you ask me about individual persons, I will tell you regarding each one of these people, whether I know his fate or not.

GEN. ALEXANDROV: The fate of these great men is universally known. You, one of the few outstanding statesmen in democratic Germany, co-operated with Hitler. Do you admit this?

SCHACHT: No.

GEN. ALEXANDROV: You testified—and I am obliged to refer once again to the same question—that the entry in the Goebbels diary of 21 November 1932 was false. Once again I remind you of this entry which Goebbels wrote, and I quote:

"In a conversation with Dr. Schacht I found that he fully reflects our viewpoint. He is one of the few who fully agrees with the Führer's position."

Do you continue to say that this entry does not conform to reality?

This is the question which I am asking you.

SCHACHT: I have never claimed that this entry was false. I only claimed that Goebbels got this impression and he was in error about it.

GEN. ALEXANDROV: But according to your statement this entry does not conform to reality, to your attitude toward Hitler's regime. Is that the case or not?

SCHACHT: In the general way in which Goebbels represents it there, it is wrong; it is not correct.

GEN. ALEXANDROV: Why did you not lodge a protest? After all, Goebbels' diary, including this entry, was published.

SCHACHT: If I would have protested against all the inaccuracies which were printed about me, I would never have come to my senses.

GEN. ALEXANDROV: But do you not see, this is not exactly an ordinary excerpt from Goebbels' diary—and he was rather an outstanding statesman in fascist Germany—for he describes your political views; and if you were not in agreement with him it would have been appropriate for you, in some way or other, to take a stand against it.

SCHACHT: Permit me to say something to this. Either you ask me—at any rate I should not like to have here a two-sided argument if it is only one-sided. I say that the diary of Goebbels is an unusually common piece of writing.

GEN. ALEXANDROV: The witness, Dr. Franz Reuter, your biographer and close friend, in his written affidavits of 6 February 1946, presented to the Tribunal by your counsel as Document Schacht-35, testified to the following: "Schacht joined Hitler in the early thirties and helped him to power . . ."

Do you consider these affidavits of the witness Dr. Franz Reuter as untrue, or do you confirm them?

SCHACHT: I consider them wrong.

GEN. ALEXANDROV: How far did you personally participate to help bring Hitler to power? I continue this question: Under what circumstances and for what purpose did you, in February 1933, organize a meeting between Hitler and the industrialists? This subject has already been mentioned before.

SCHACHT: I did not help Hitler to come to power in any way. All this has been discussed here at great length. In February 1933 Hitler had already been in power quite some time. As to finances and the industrial meetings of February 1933, that has profusely been gone into.

GEN. ALEXANDROV: What particular role did you play in this conference?

SCHACHT: This, too, has been discussed in detail. Please read about it in the record.

GEN. ALEXANDROV: I have already familiarized myself with the reports but you have not explained events sufficiently clearly. In order to shed some more light on the question I shall refer to Defendant Funk's testimony of 4 June 1945. This is Document Number 2828-PS. I quote Defendant Funk's testimony:

> "I was at the meeting. Money was not demanded by Göring but by Schacht. Hitler left the room, then Schacht made a speech asking for money for the election. I was only there as an impartial observer, since I enjoyed a close friendship with the industrialists."

Does this testimony of the Defendant Funk represent the truth?

SCHACHT: Herr Funk is in error. Document D-203 has been presented here to the Court by the Prosecution...

GEN. ALEXANDROV: But...

SCHACHT: Please do not interrupt me. The Prosecution has submitted this document, and this document shows that Göring directed the request for financial aid and not I.

GEN. ALEXANDROV: In this connection Defendant Funk declared that this speech was made by you and not by Göring. I ask you now, which statement represents the truth?

SCHACHT: I have just told you that Herr Funk is in error and that the evidence of the Prosecution is correct.

GEN. ALEXANDROV: Then what part did you play in connection with this conference?

SCHACHT: This, too, I have already stated in detail. I am...

THE PRESIDENT: The Tribunal has already heard a long cross-examination and it does not desire to hear the same facts or matters gone over again. Will you tell the Tribunal whether you have any points which the Soviet Union are particularly interested in, which have not been dealt with in cross-examination?

GEN. ALEXANDROV: Mr. President, in his statements the Defendant Schacht did not reply in sufficient detail, nor were his answers sufficiently clear. I am therefore obliged, in certain instances, to refer to these questions again. It is, in particular, not clear to us what part the Defendant Schacht played in this meeting of the industrialists. It appears to me that Defendant Schacht did not give a sufficiently clear or well-defined reply to the question which I had asked him. As for the other questions, they are few in number and I imagine that after the recess I can try and finish with them in about 30 or 40 minutes. All these questions are of interest to us since they enable us to determine the guilt of the Defendant Schacht.

THE PRESIDENT: Very well. The Tribunal is not prepared to listen to questions which have already been put.

GEN. ALEXANDROV: Perhaps now you will find it desirable to declare a recess, in order to continue the cross-examination after the recess.

THE PRESIDENT: No, General Alexandrov, the cross-examination will continue up to the recess.

GEN. ALEXANDROV: Do you admit that, while acting as President of the Reichsbank and as Minister of Economics and Plenipotentiary for War Economy, you played a decisive part in preparing the rearmament of Germany and consequently, in preparing for a war of aggression?

SCHACHT: No, I categorically deny that.

GEN. ALEXANDROV: You were Plenipotentiary for War Economy?

SCHACHT: Well, we have spoken about that here ten times already.

GEN. ALEXANDROV: I did not hear it from your own lips, not once.

THE PRESIDENT: He has admitted throughout—and, of course, it is obvious—that he was Plenipotentiary for War Economy; but what you put to him was, whether he as Plenipotentiary for War Economy took part in rearmament for aggressive war, and he has said over and over again that that was not his object, that his

object was to gain equality for Germany. He said so, and we have got to consider whether that is true. But that he said it is perfectly clear.

GEN. ALEXANDROV: In my subsequent questions it will be quite clear why I touch precisely on this question.

How long did you occupy the post of Plenipotentiary for War Economy?

SCHACHT: I have just stated that I do not understand the question—for what duration? All this has certainly been stated here already.

THE PRESIDENT: We have got the date when he became Plenipotentiary for War Economy and the date when he ceased to be.

GEN. ALEXANDROV: I should like to remind you of the duties imposed on you as Plenipotentiary by the Reich Defense Act of 21 May 1935. I shall quote a brief excerpt from Section 2 of this law, entitled "Mobilization":

"Point 1: For the purpose of directing the entire war economy the Führer and Reich Chancellor will appoint a Plenipotentiary for War Economy.

"Point 2: It will be the duty of the Plenipotentiary for War Economy to utilize all economic possibilities in the interest of the war and to safeguard the economic well-being of the German people.

"Point 3: Subordinate to him will be: the Reich Minister of Economics, the Reich Minister for Food and Agriculture, the Reich Labor Minister, the Chief Reich Forester, and all other Reich officials directly subordinate to the Führer and Reich Chancellor.

"Further, he shall be responsible for the financing of the war within the sphere of the Reich Finance Ministry and the Reichsbank.

"Point 4: The Plenipotentiary for War Economy shall have the right to enact public laws within his official jurisdiction which may differ from existing laws."

You admit that this law gave you extraordinary powers in the sphere of war economy?

SCHACHT: This document is before the Court and I assume that you have read it correctly.

GEN. ALEXANDROV: I am not asking you whether I have read this document correctly; I am asking you whether you admit that by this law you were given extraordinary powers in the sphere of the war economy? Do you admit that?

SCHACHT: I had exactly the full powers which are described in the law.

GEN. ALEXANDROV: Do you admit that these were not ordinary powers, but quite extraordinary powers?

SCHACHT: No, I will not admit this at all.

GEN. ALEXANDROV: In other words, you considered that the Reich Defense Law of 21 May 1935 was just an ordinary law?

SCHACHT: It was simply an ordinary law.

GEN. ALEXANDROV: And you also considered the functions imposed on you by this law as Plenipotentiary for War Economy ordinary functions?

SCHACHT: As very common regulations which are customary with every general staff.

THE PRESIDENT: The Court will adjourn now.

[A recess was taken.]

Afternoon Session

THE PRESIDENT: Yes, General Alexandrov.

GEN. ALEXANDROV: Mr. President, taking into consideration the Tribunal's desire, as well as the fact that Mr. Jackson has already questioned Schacht in detail, and having read the minutes of this morning's session, it has been possible for me to shorten considerably the number of questions in my examination. I have only two to put to Defendant Schacht.

Defendant Schacht, on 21 May 1935 the Reich Government made a decision with regard to the Reich Defense Council. The decision was as follows, citing Point 1:

"It is the will of the Führer and Reich Chancellor that the Plenipotentiary General for War Economy shall take over this responsible directorate (Leitung), and is, as with the Reich War Minister, holder of the executive power, independent and responsible for his own sphere of activity to the Führer and Reich Chancellor."

Do you admit that you carried through actively this decision of the Reich Government; and that you took an active part in Germany's economic preparations for aggressive wars?

SCHACHT: No, Mr. Prosecutor, I definitely do not admit that.

GEN. ALEXANDROV: On the 4th of March 1935, in your speech at the Spring Fair in Leipzig, you said the following, citing Exhibit Number USA-627 (Document Number EC-415):

"My so-called foreign friends are doing neither me nor the cause a service, nor a service to themselves, when they try to bring me into conflict with the impossible, so they say, National Socialist economic theories, and present me, so to speak, as the guardian of economic reason. I can assure you that everything I say and do is with the full consent of the Führer, and I shall neither do nor say anything which he has not approved. Therefore, the guardian of economic reason is not I but the Führer."

Do you confirm this speech you made at the Spring Fair in Leipzig?

SCHACHT: I admit it and would like to make a statement.

I have said repeatedly, first, that my foreign friends, as far as I had foreign friends, did not do me a service when they said publicly that I was an adversary of Hitler, because that made my position extremely dangerous. Secondly, I said in that speech I would not do anything which would not be according to my conviction, and that Hitler did everything I suggested to him, that is, that it was

his opinion also. If I had said anything to the contrary, that would have been expressed. I was in complete accord with him as long as his policies agreed with mine; afterwards I was not, and left.

GEN. ALEXANDROV: I have no more questions, Your Honor.

THE PRESIDENT: Do you wish to re-examine, Dr. Dix?

DR. DIX: I will put only a few questions which arose from the cross-examination.

During the cross-examination, the New Plan was again dealt with without Dr. Schacht's having had an opportunity of explaining it and of stating what role, if any, that plan had in the economy of rearmament and who was the originator, the responsible originator of the New Plan. Therefore, may I put this question to Dr. Schacht now?

SCHACHT: The New Plan was a logical consequence of the economic development which followed the Treaty of Versailles. I mention again only briefly that by the removal of German property abroad, the entire organization for German foreign trade was taken away and therefore great difficulties arose for German exports.

Without those exports, however, payment of reparations, or such, was out of the question. Nevertheless, all the great powers, particularly those who were competing with Germany on the world market, resorted to raising their tariffs in order to exclude German merchandise from their markets or to make it more difficult for Germany to sell her goods, so that it became more and more of a problem to develop German exports.

When Germany, in spite of this, tried by lower prices at the cost of lower wages to maintain or to increase her export trade, the other powers resorted to other means to meet German competition. I recall the various devaluations of foreign currencies which were made, again impeding the competition of German products. When even that did not suffice, the system of quotas was invented; that is, the amount of German goods which were imported into a country could not go beyond a certain quota; that was prohibited. Such quotas for German imports were established by Holland, France, and other nations; so here also German export was made increasingly difficult.

All these measures to hinder German export led to the situation that German nationals also could no longer pay even private debts abroad. As you have heard here, for many years I had warned against incurring these debts. I was not listened to. It will be of interest to you to state here briefly that Germany, against my advice, had within five years contracted as large a foreign debt

as the United States had throughout the 40 years before the first World War.

Germany was a highly-developed industrial nation and did not need foreign money, and the United States at that time was going in more for colonial development and could make good use of foreign capital.

We now hit the bottom. When we were no longer able to pay our interest abroad, some countries resorted to the method of no longer paying German exporters the proceeds from the German exports, but confiscated these funds, and out of this paid themselves the interest on our debts abroad; that is, effecting a settlement, so to speak. That was the so-called "clearing system." The private claims were confiscated in order to meet the demands of foreign creditors.

To meet this development, I looked for a way out to continue German exports. I set out a very simple principle: "I will buy only from those who buy from me." Therefore, I looked around for countries which were prepared to cover their needs in Germany, and I prepared to buy my merchandise there.

That was the New Plan.

THE PRESIDENT: I do not know what we have to do with this, Dr. Dix.

DR. DIX: Well, to make a long story short, the New Plan had nothing to do with the intention to rearm, let alone with any aggressive intentions.

SCHACHT: Absolutely nothing.

DR. DIX: In this connection, can you give an estimate as to what percentage of German economic production was armament production?

SCHACHT: That question has been put to me in previous interrogations and at that time I was not able to answer it, because I could not recall what amount Germany expended on her armament. Now, from the testimony of Field Marshal Keitel, we have heard here that armament expenditure during these years when the Reichsbank was still co-operating, 1934-35, 1935-36, 1936-37 and so on, amounted respectively to 5,000 million Reichsmark, 7,000 million Reichsmark and 9,000 million Reichsmark; that is the estimate of experts. The production of the entire German economy during these years could be estimated approximately at 50-60,000 million Reichsmark. If I compare that with the armament expenditure, which has been stated here by a witness, then we find that armament expenditure amounted to about 10 to 15 percent of the entire German economy during the years when I had anything to do with it.

DR. DIX: Then, in the course of the cross-examination, there came up the question of your willingness or unwillingness to give up the office of Plenipotentiary for War Economy, and in order to prove your statement that General Von Blomberg did not wish you to give up that office, you referred to a document which has been submitted by the Prosecution. I am referring to Document EC-244, and it is a letter from the Reichswehr Minister, Von Blomberg, to Hitler, of 22 February 1937. It has already been read, so there is no need to do so now. May I only point out that in the last paragraph Blomberg expressed the desire that the Führer would direct or get the Reichsbank president to remain in office, so that covers the statement made by Schacht. Furthermore, in the course of cross-examination by Mr. Justice Jackson, mention was made of your credibility concerning the statement on your colonial aspirations; and from the point of view of colonial policy without mastery of the sea—Germany had not the mastery of the sea—can Germany have any colonial problems? That was the question and answer; and in that connection I would like to ask you: Did Germany have colonies before 1914?

SCHACHT: Yes.

DR. DIX: Before 1914, or let us say between 1884 and 1914, that is, the time when Germany had colonial possessions, did Germany have mastery of the sea, especially as compared with Great Britain?

SCHACHT: No, in no way.

DR. DIX: That covers it. Then there is another problem from the point of view of the credibility of your statements: Mention has been made of the ethical conflicts concerning your oath to Hitler, as head of the State, as you say, and the intentions which you have revealed to overthrow Hitler, even to kill him. Do you not know of many cases in history where persons holding high office in a state attempted to overthrow the head of the state to whom they had sworn allegiance?

SCHACHT: I believe you find these examples in the history of all nations.

THE PRESIDENT: Dr. Dix, we are not concerned with past history, are we? You do not think the question of whether there are historical instances is a legitimate question to put to this witness?

DR. DIX: Then I will not pursue that point any further; it is argumentation and maybe I can use it later in my final pleadings.

Now, returning to the question of colonies, is it not correct that, apart from your personal colonial aspirations, Germany, the Reich Government, had prepared officially for the acquisition of her

colonies and later their administration; and was not there a colonial policy department until 1942 or 1943 or thereabouts?

SCHACHT: Well, it is set out explicitly in the Party program that the colonial demands are part of the Party program. Of course, the Foreign Office also concerned itself with it and I believe also in the Party there was a colonial policy department.

DR. DIX: Under Ritter Von Epp?

SCHACHT: Yes, under Ritter Von Epp.

DR. DIX: Then concerning the question of the mefo bills, I only want to summarize: Did you mean to imply that the mefo bills were to serve as a brake on rearmament, because the signature of the Reich to these bills, that is of the Reich Government, was binding for their repayment?

SCHACHT: You see, I said very clearly that the limitation of the mefo bills to 5 years, and making them mature in 5 years, would automatically put a brake on armament.

DR. DIX: Furthermore, Mr. Justice Jackson dealt with the point that the name of Schacht, when he retained office as Minister without Portfolio, had a propaganda value in favor of the Nazi regime abroad and therefore served the aggressive intentions and their execution. In this connection and in order to shorten the presentation of my documents, may I read from my document book, Exhibit 37(a), Document Schacht-37(a); that is, the English text is on Page 157 and the German on Page 149. On Page 5 of that long affidavit Huelse states:

> "The foreign press drew from the dismissal"—that is, the dismissal as Reichsbank President in 1939—"the correct conclusions and interpreted it as a warning signal. In this connection in repeated conversations, even at the end of 1938, and in agreement with Dr. Schacht, I spoke with representatives of foreign issuing banks, whom I had met at board meetings of the Bank for International Settlement, and I informed them that the resignation of Schacht and individual members of the Reichsbank Directorate meant that things in Germany were following a dangerous path."

Furthermore, the Prosecutor for the Soviet Union has accused Dr. Schacht because in the biography of Reuter it is stated expressly that Schacht assisted the regime during the stage of the struggle for power. At any rate, that is the substance. That is correct as a quotation from Reuter's book, but there is something else. I believe we still have to submit Exhibit 35 (Document Schacht-35), Page 133 of the English text and 125 of the German, and there we

find on the second page of that long affidavit the following sentences, which limit the authenticity of that biography and prove it to be a biased piece of writing. Reuter says in this affidavit, and I quote:

"I had a biography of Dr. Schacht published twice, first at the end of 1933 by the Publishing House R. Kittler in Berlin, and at the end of 1936 by the German Publishing Institute in Stuttgart. Besides its being a factual presentation of his life and his work, it also served the purpose of shielding him from his attackers. Therefore the principles of purely objective historical research are not applicable to this publication, because defensive views required by the situation at the time has to be taken into consideration."

This must be known and read before one can estimate the evidential value of that biography.

And that concludes my questions.

THE PRESIDENT: The defendant can then retire.

DR. DIX: I now call the witness Vocke with Your Lordship's permission.

[The witness Vocke took the stand.]

THE PRESIDENT: Will you state your full name?

WILHELM VOCKE (Witness): Wilhelm Vocke.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath in German.]

THE PRESIDENT: You may sit down.

DR DIX: Herr Vocke, you were a member of the Directorate of the Reichsbank. When did you enter the Reichsbank Directorate, and when did you resign from it?

VOCKE: Reich President Ebert appointed me a member of the Reichsbank Directorate in 1919, and Hitler dismissed me from office on 1 February 1939. Therefore, I was for about 20 years a member of the Reichsbank Directorate, and for 10 of these years I was under Schacht.

DR. DIX: Excuse me, but I must ask you, were you a member of the Party?

VOCKE: No.

DR. DIX: Were you a member of the SA?

VOCKE: No.

DR. DIX: Were you a member of the SS?

VOCKE: No.

DR. DIX: Were you a sponsoring member of the SA or SS?

VOCKE: No.

DR. DIX: You had no connection with the Party?

VOCKE: No.

DR. DIX: When did you meet Schacht?

VOCKE: In 1915. I merely made his acquaintance then, but it was not until he became Reichsbank Kommissar and Reichsbank President, that I came to know him better.

DR. DIX: I come now to the period of the first Reichsbank presidency of Schacht, that is, the year 1923. At that time what was the attitude of the Reichsbank Directorate to the candidature of Schacht as Reichsbank President?

VOCKE: A disapproving attitude.

DR. DIX: And for what reason?

VOCKE: We wanted Helferich as candidate for the presidency of the Reichsbank, because Helferich, in close co-operation with the Reichsbank, had created the Rentenmark and stabilization of currency.

But as reason for our disapproval of Schacht, we mentioned an incident contained in Schacht's dossier which referred to his activity under Herr Von Jung in 1915. According to this, Schacht, who had come from the Dresdner Bank, had rendered assistance to the Dresdner Bank which Von Jung did not consider quite correct, and that was the reason for Schacht's dismissal at that time.

The Reich Government, however, did not heed the criticism which we made against Schacht, and as Minister Severing told me recently, he followed the proverb, "It is not the worst fruit which is eaten by worms," and Schacht was appointed President.

DR. DIX: So that Schacht came to you as President, and he must have known that the Directorate did not want him, or at any rate wanted somebody else. Therefore, I assume the question is in order as to what the relations were among that group, that is, the Reichsbank Directorate and the new President.

VOCKE: Schacht took up his office in January 1924. He called us all to a meeting in which he spoke very frankly about the situation, and this was the substance of what he said: Well, you disapproved of me for President because I stole silver spoons; but now I am your President, and I hope that we will work together, and we will get to see eye to eye—that was the expression used by

Schacht—however, if one or another of you feels that he cannot work with me, well, then he will have to take the consequences, and I will gladly assist him to find another position.

Our relations with Schacht soon became good and we worked together successfully. It was very good to work with Schacht. We quickly recognized that he was an unrivalled expert in his and our branch, and also in other respects his conduct was beyond reproach. He was clean in his dealings and there was no nepotism. Neither did he bring with him any men whom he wanted to push. Also he was a man who at all times tolerated controversy and differing opinions—he even welcomed them. He had no use for colleagues who were "yes men."

THE PRESIDENT: There is neither any charge nor any issue about this.

DR. DIX: That is quite correct, Your Lordship, but I thought it would be helpful to touch upon these things. But we are now at the end, and will come to the Reichsbank presidency from 1933 on.

[Turning to the witness.] After his short period of retirement Schacht again became President of the Reichsbank in 1933. Did you have any conversations with him about his relations to Hitler and to the Party?

VOCKE: Yes.

DR. DIX: Would you like to describe to the Tribunal the kind of statements Schacht made to you?

VOCKE: First, I would like to mention two conversations which I remember almost word for word. During the period when Schacht was not in office, that is about three years, I hardly ever saw him, maybe three or four times at occasions at the Wilhelmstift. He never visited me, nor did I visit him, except once, when Schacht came into the bank—maybe he had some business there—and visited me in my office. We at once . . .

DR. DIX: When was that?

VOCKE: That must have been in 1932, a comparatively short time before the seizure of power. We immediately began to speak about political questions, about Hitler and Schacht's relations to Hitler. I used that opportunity to warn Schacht seriously against Hitler and the Nazis. Schacht said to me: "Herr Vocke, one must give this man or these people a chance. If they do no good, they will disappear. They will be cleared out in the same way as their predecessors."

I told Schacht: "Yes, but it may be that the harm done to the German people in the meantime will be so great that it can never be repaired."

Schacht did not take that very seriously, and with some light remark, such as: You are an old pessimist, or something like that, he left.

The second conversation about which I want to report took place shortly after Schacht's re-entry into the bank. It was probably in March 1933, or the beginning of April. Schacht at that time showed a kind of ostentatious enthusiasm, and I talked to him about his relation to the Party. I assumed that Schacht was a member of the Party. I told him that I had no intention of becoming a member of the Party, and Schacht said to me: "You do not have to. You are not supposed to. What do you think? I would not even dream of becoming a member of the Party. Can you imagine me bending under the Party yoke, accepting the Party discipline? And then, think of it, when I speak to Hitler I should click my heels and say, 'Mein Führer,' or when I write to him address him as 'Mein Führer.' That is quite out of the question for me. I am and remain a free man."

That conversation took place and those words were spoken by Schacht at a time when he was at the apex of a rapprochement with Hitler, and many a time I have thought about it, whether it was true, and remained true, that Schacht was a free man.

As things turned out, after a few years Schacht was forced to realize to his sorrow that he had lost a great deal of his freedom, that he could not change the course of the armaments financing scheme, upon which he had embarked, when he wished to do so; that it had become a chain in the hands of Hitler and that it would take years of filing and tugging for it to break.

But, in spite of that, his words were true inasmuch as they reflected the inner attitude of Schacht towards Hitler. Schacht never was a blind follower. It was incompatible with his character, to sign himself away to somebody, to sell himself and follow with blind devotion.

If one should seek to characterize Schacht's attitude to Hitler thus: My Führer, you command, I follow; and if the Führer ordered him to prepare an armament program: I will finance an armament program, and it is for the Führer to decide to what use it shall be put, whether for war or peace—that would be incompatible with Schacht's attitude and character. He was not a man who thought along subaltern lines or who would throw away his liberty; in that Schacht differed fundamentally from a great many men in leading political and military positions in Germany.

Schacht's attitude, as I came to know it from his character and from his statements, could be explained somewhat as follows: Schacht admired this man's tremendous dynamic force directed

towards national aims, and he took account of this man, hoping to use him as a tool for his own plans, for Schacht's plans towards a peaceful political and economic reconstruction and strengthening of Germany. That is what Schacht thought and believed, and I take that from many statements made by Schacht . . . .

DR. DIX: That, I think, answers the question fully. Now the Prosecution accuses Schacht and alleges that Hitler picked out Schacht to finance armament for an aggressive war. You, Herr Vocke, were a member of the Reichsbank Directorate and you worked with him during all those years. Therefore, I ask you to tell the Tribunal whether anything transpired in the course of conversations, or whether you noticed anything about Schacht's activities and work which would justify such a reproach.

VOCKE: No. Schacht often expressed the view that only a peaceful development could restore Germany and not once did I hear him say anything which might suggest that he knew anything about the warlike intentions of Hitler. I have searched my memory and I recall three or four incidents which answer that question quite clearly. I should like to mention them in this connection.

The first was the 420 million gold mark credit which was repaid in 1933. Luther, when the Reichsbank cover disintegrated in the crisis . . .

DR. DIX: May I interrupt for the information of the Tribunal: Luther was Schacht's predecessor.

VOCKE: . . . in 1931 when the cover for the issue of notes had to be cut down, Luther in his despair sent me to England in order to acquire a large credit in gold from the Bank of England which would restore confidence in the Reichsbank. Governor Norman was quite prepared to help me, but he said that it would be necessary for that purpose to approach also the Federal Reserve Bank of New York, the Bank of France, and the International Bank in Basel. That was done and the credit amounted to 420 million gold marks, but the inclusion of the Bank of France created political difficulties which delayed the credit for about 10 or 12 days.

When I returned to Berlin I was shocked to hear that the greater part of the credit had already been used up. The gold was torn from our hands, and I told Luther: The credit has lost its usefulness and we must repay it immediately. Our honor is our last asset. The banks which have helped us shall not lose a single pfennig.

Luther did not have sufficient understanding for that, and he said in so many words: What one has, one holds. We do not know for what purpose we may still have urgent need of the gold. And so the credit was extended and dragged out over years.

When Schacht came to the bank in 1933, I told myself that Schacht would understand me, and he did understand me immediately. He agreed with me and repaid that credit without hesitation. It never entered his head for what other purpose one might use that enormous sum of gold, and I say here that if Schacht had known of any plans for a war, he would have been a fool to pay back 420 million gold marks.

As to the second incident, I cannot give the exact date, but I believe it was in 1936. The Reichsbank received a letter from the Army Command or the General Staff marked "Top Secret," with the request to remove the gold reserves of the Reichsbank, the securities and bank note reserves from the frontier regions of Germany to a zone in the interior. The reasons given were the following: In the event of a threat to attack Germany on two fronts, the Army Command had decided to evacuate the frontier areas and to confine itself to a central zone which could be defended under all circumstances. I still remember from the map which was attached to the letter that the line of defense in the East . . .

THE PRESIDENT: It seems to the Tribunal that this is very remote from any question we have to decide.

DR. DIX: Your Lordship, that map which the witness wants to describe shows clearly and beyond doubt that the attitude of the German High Command in 1936 was a defensive attitude and one which accepted the greatest strategic disadvantages, and this was communicated to the Reichsbank under the presidency of Schacht. We can see from that communication that nobody at that time even thought of aggressive intentions of the Army Command.

THE PRESIDENT: At what time?

DR. DIX: 1936, I understood him to say that. Perhaps it is better that he should give you the date.

VOCKE: I cannot say exactly what the date was, but it must have been about 1936, in my estimation.

DR. DIX: I believe that it is rather relevant. May the witness continue?

THE PRESIDENT: Yes.

VOCKE: The line of defense in the East went from Hof straight up to Stettin; I cannot remember so well where the western line was drawn, but Baden and the Rhineland were outside of it.

The Reichsbank was shocked to hear that and about the threat of a two-front attack on Germany and the tremendous sacrifice of German territory. It was also shocked at the idea that the Reichsbank, in the event of an occupation of these regions by the enemy, would have to leave these occupied territories without any financial

support. Therefore we refused the last-mentioned request, but, as far as the gold was concerned, we placed it in Berlin, Munich, Nuremberg, and so on.

We could no longer have any doubt, however, after this top secret document, about the defensive character of our armaments and preparations.

I come to a third incident. That was in 1937. At that time, when the economy was already racing ahead and more and more money was being put up, Schacht asked for the support of the German professors of economy and called them together to persuade them to work along his lines, that is, to try to check this trend. At that meeting one of those present asked Schacht the question: "What will happen if war breaks out?" Schacht got up and said: "Gentlemen, then we are lost. Then everything is over with us. I ask you to drop this subject. We cannot worry about it now."

Now I come to the fourth incident, which also leaves no doubt about Schacht's attitude or the completeness of his information. That was a conversation immediately after the outbreak of the war. In the first few days Schacht, Huelse, Dreyse, Schniewind and I met for a confidential talk. The first thing Schacht said was: "Gentlemen, this is a fraud such as the world has never seen. The Poles have never received the German offer. The newspapers are lying in order to lull the German people to sleep. The Poles have been attacked. Henderson did not even receive the offer, but only a short excerpt from the note was given to him verbally. If at any time at the outbreak of a war, the question of guilt was clear, then it is so in this case. That is a crime the like of which cannot be imagined."

Then Schacht continued: "What madness to start a war with a military power like Poland, which is led by the best French general staff officers. Our armament is no good. It has been made by quacks. The money has been wasted without point or plan."

To the retort: "But we have an air force which can make itself felt," Schacht said: "The air force does not decide the outcome of a war, the ground forces do. We have no heavy guns, no tanks; in three weeks the German armies in Poland will break down, and then think of the coalition which still faces us."

Those were Schacht's words and they made a deep impression on me; for me they are a definite and clear answer to the question which Dr. Dix put to me.

DR. DIX: Now, in the course of those years from 1933 to 1939 did Schacht ever speak to you about alleged or surmised war plans of Hitler?

VOCKE: No, never.

DR. DIX: What was Schacht's basic attitude to the idea of a war; did he ever mention that to you?

VOCKE: Yes, of course, fairly often. Schacht always emphasized that war destroys and ruins both the victor and the vanquished, and, in his and our field, he pointed to the example of the victorious powers whose economy and currency had been devaluated and partly even crippled. England had to devaluate her currency; in France there was a complete breakdown of the financial system, not to speak of other powers such as Belgium, Poland, Romania, and Czechoslovakia.

DR. DIX: Schacht made these statements?

VOCKE: Yes, he did, and quite frequently. Schacht went into detail and was very definite about the situation in neutral countries. Schacht said again and again: There will be conflicts and war again, but for Germany there is only one policy, absolute neutrality. And he quoted the examples of Switzerland, Sweden, and so on, who by their neutral attitude had grown rich and more powerful and become creditor nations. Schacht again and again emphasized that very strongly.

DR. DIX: In that connection you will understand my question. How can you explain then, or rather, how did Schacht explain to you the fact that he was financing armament at all?

VOCKE: Schacht believed at that time that a certain quantity of armaments, such as every country in the world possessed, was also necessary for Germany for political . . .

DR. DIX: May I interrupt you. I want you to state only the things which Schacht told you; not your opinions about what Schacht may have thought, but only what Schacht actually said to you.

VOCKE: Yes. Schacht said a foreign policy without armament was impossible in the long run. Schacht also said that neutrality, which he demanded for Germany in case of conflict between the big powers, must be an armed neutrality. Schacht considered armaments necessary, because otherwise Germany would always be defenseless in the midst of armed nations. He was not thinking of definite attack from any side, but he said that in every country there was a militarist party which might come to power today or tomorrow, and a completely helpless Germany, surrounded by other nations, was unthinkable. It was even a danger to peace because it was an incentive to attack her one day. Finally, however, and principally Schacht saw in armaments the only means of revitalizing and starting up German economy as a whole. Barracks would have to be built; the building industry, which is the backbone of economy, must be revitalized. Only in that way, he hoped, could unemployment be tackled.

DR. DIX: Now, events led to the militarization of the Rhineland, the reintroduction of compulsory military service. Did you have conversations with Schacht in which he said that if this policy of Hitler was pursued it might lead to a war, at least to an armed intervention by other nations which did not approve of such policies? Were there any such conversations between you and Schacht?

VOCKE: Not in the sense of your question. Schacht did speak to me about the incidents when the Rhineland was reoccupied, that is to say, he explained to me how at that time Hitler, as soon as France adopted a somewhat menacing attitude, was resolved to withdraw his occupation forces—Hitler had climbed down—and how he was only prevented in this by Herr Von Neurath, who said to him: "I was against that step, but now that you have done it, it will have to stand." What Schacht told me at that time about Hitler's attitude was that Hitler would do anything rather than have a war. Schacht also felt this, as he told me, when he mentioned the friendship with Poland, the renunciation of his claim to Alsace-Lorraine, and, in particular, Hitler's policy during the first years, all of which was a peaceful policy. Only later did he begin to have misgivings as regards foreign policy.

DR. DIX: What were Schacht's principles and ideas in foreign policy and how did these line up with his attitude to Hitler's foreign policy?

VOCKE: He definitely disapproved, especially, of course, since Ribbentrop had gained influence in foreign politics; Schacht saw in him the most incapable and irresponsible of Hitler's advisers. But already before that there were serious differences of opinion between Schacht and Hitler on foreign policy.

For instance, as regards Russia: Already from 1928-29 onwards Schacht had built up a large trade with Russia by long term credits which helped the economy of both countries. He has often been attacked on account of that, but he said: "I know what I am doing. I also know that the Russians will pay punctually and without bargaining. They have always done it." Schacht was very angry and unhappy when Hitler's tirades of abuse spoiled the relations with Russia and brought this extensive trade to an end.

Also, with regard to China, Schacht was convinced of the importance of trade with China and was just about to develop it on a large scale, when Hitler, by showing preference to Japan and recalling the German advisers to Chiang Kai-Shek, again destroyed all Schacht's plans. Schacht saw that this was a fatal mistake and said that Japan would never be able nor willing to compensate us for the loss of trade with China.

Also Schacht always advocated close co-operation with the United States, with England, and with France. Schacht admired Roosevelt and was proud of the fact that Roosevelt, through the diplomat Cockerill, kept in constant touch with him. Schacht was convinced of the necessity of remaining on the best terms with England and France and for that very reason he disapproved of Ribbentrop being sent to London and actively opposed this plan.

Schacht was against Hitler's policy towards Italy. He knew that Mussolini did not want to have anything to do with us, and he considered him the most unreliable and the weakest partner.

With regard to Austria, I know only that Schacht thought highly of Dollfuss and was horrified and shocked when he heard of his murder. Also after the occupation of Austria, he disapproved of much that happened there.

May I, in this connection, say a word about Schacht's colonial policy, which was a sort of hobby of Schacht's, and about which he once gave a lecture? I can best illustrate Schacht's views by telling you about the orders which he gave me. Schacht's idea was to make an arrangement with England, France, *et cetera,* whereby these powers should purchase part of the Portuguese colony of Angola and transfer it to Germany, who would not exercise any sovereign rights, but would exploit it economically; and he had experts' opinions . . .

THE PRESIDENT: Dr. Dix, the Tribunal thinks that this is being given in far too great length.

DR. DIX: Well, we can leave out the individual examples. The late Field Marshal Von Blomberg made a statement to the effect that the Reichsbank received every year from the Reichswehr Ministry a written communication about the state of the armaments. Do you, who were a member of the Directorate, know anything about this communication?

VOCKE: No, I have never heard anything about it.

DR. DIX: From the whole of your experience in the Reichsbank and your experience with Schacht's attitude to his colleagues, do you consider it possible that Schacht personally received that information, but did not pass it on to any of his colleagues in the Reichsbank Directorate?

VOCKE: It may be, but I consider it highly improbable.

DR. DIX: Now, when did Schacht start to try to stop the financing of armaments and thereby check rearmament; and, if he did try, and if you can affirm it, what were his reasons?

VOCKE: Schacht made the first attempts to limit armaments, I believe, about 1936, when economy was running at top speed and

further armament seemed an endless spiral. The Reichsbank was blocked and, I believe, in 1936, Schacht himself started making serious attempts to put an end to armaments.

DR. DIX: And do you know from your own experience what these attempts were?

VOCKE: These attempts continued throughout the following years: First, Schacht tried to influence Hitler and that proved to be in vain. His influence decreased as soon as he made any such attempt. He tried to find allies in the civic ministries, and also among the generals. He also tried to win over Göring, and he thought he had won him over, but it did not work. Schacht then put up a fight and at last he succeeded in stopping the Reichsbank credits for armaments. That was achieved at the beginning of March 1938. But that did not mean that he discontinued his efforts to stop rearmament itself, and he continued to use every means, even sabotage.

In 1933 he issued a loan at a time when he knew that the previous loan had not yet been absorbed—when the banks were still full of it; and he made the amount of the new loan so big that it was doomed to failure. We waited eagerly to see whether our calculations were correct. We were happy when the failure became obvious, and Schacht informed Hitler.

Another way in which he tried to sabotage armaments was when the industries which applied for loans to expand their factories were prohibited from doing so by Schacht, and thus were prevented from expanding. The termination of the Reichsbank credit did not only mean that the Reichsbank could no longer finance armaments, but it dealt a serious blow to armament itself. This was shown in 1938, when financing became extremely difficult in all fields and, upon Schacht's resignation, immediately reverted to the direct credits of the issuing bank, which was the only means of maintaining elastic credit, perpetual credit, so to speak, which Hitler needed and could never have received from Schacht.

I know that from my personal recollection, because I protested against that law which was put to me and which Hitler issued after Schacht's dismissal. I said to the Vice President: I am not going to have anything to do with it.

Thereupon, I was immediately dismissed ten days after the dismissal of Schacht.

DR. DIX: Well, Herr Vocke, for an outsider the motive for stopping the financing of armaments might have been purely economic. Have you any grounds, have you any experience which shows that Schacht was now also afraid of war, and wanted to prevent a war by this stoppage of credit?

VOCKE: Yes. At any rate, in 1938 the feeling that this tremendous armaments program which had no limits would lead to war became stronger and stronger, especially after the Munich Agreement. In the meantime Schacht had realized, and I think the Fritsch affair had made it very clear to him, that Hitler was the enemy, and that there was only one thing to do; that was to fight against Hitler's armament program and warmongering by every possible means. These means, of course, were only financial, such as the sabotage, *et cetera,* as I have already described. The final resort was the memorandum by which Schacht forced his resignation.

DR. DIX: We will speak later about that. May I ask you another question? The Tribunal know about the method of financing this credit, namely, by mefo bills, so you need not say anything about that. What I want to ask you is now, in your opinion as a lawyer, could the financing of armaments by these mefo bills be reconciled with banking law?

VOCKE: The mefo bills and the construction of that transaction had, of course, been legally examined beforehand; and the point of their legality had been raised with us, and the question as to whether these bills could be brought under banking law had been answered in the affirmative. The more serious question, however, was whether these bills fulfilled the normal requirements which an issuing bank should demand of its reserves. To that question, of course, the answer is definitely "no."

If one asks, why did not the bank buy good commercial bills instead of mefo bills, the answer is that at that time there had been no good commercial bills on the market for years—that is, since the collapse due to the economic crisis. Already under Brüning schemes for assisting and restoring economy and credit had been drawn up, all of which followed similar lines, that is, they were sanctioned according to their nature as normal credits along the lines of a semipublic loan; for the Bank was faced with the alternative of standing by helplessly and seeing what would happen to the economy or of helping the Government as best it could to restore and support the economy. All issuing banks in other countries were faced with the same alternative and reacted in the same manner. Thus the armaments bills, which, economically speaking, were nothing more than the former unemployment bills, had to serve the same purpose. From the point of view of currency policy the Reichsbank's reserves of old bills, which had been frozen by the depression, were again made good.

All the regulations under banking law, the traditional regulations concerning banking and bills policy, had only one aim, namely, to avoid losses.

DR. DIX: I believe, Herr Vocke, it will be sufficient for the Tribunal if you could confirm that in the end the legal experts of the Reichsbank pronounced the mefo bills to be legal. The reasons for this, if Your Lordship agrees, we can omit.

Now we come to the memorandum which you have already mentioned. I want you to describe to the Tribunal the reasons which caused the Reichsbank Directorate, with Schacht at the head, to submit that memorandum to Hitler, and what the tactical purposes were which the Directorate, and therefore Schacht, hoped to achieve by that memorandum.

VOCKE: If we had been able to speak frankly, of course, we would have said: You must stop armaments. But the Reichsbank itself could not do this. Instead, we had to limit ourselves to the question of our responsibility for the currency. Therefore, the Reichsbank memorandum dealt with the question of currency. It said: If the financing of armaments is continued, German currency will be ruined and there will be inflation in Germany.

The memorandum also spoke of limitless credits, of unrestrained expansion of credits, and unrestrained expenditure. By expenditure we meant armaments. That was quite clear.

THE PRESIDENT: We have all seen the memorandum, have we not?

DR. DIX: He is not speaking about the contents of the memorandum, but of the reasons, the tactical reasons.

[Turning to the witness.] You understand, Herr Vocke, the Tribunal knows the text of the memorandum, so please confine yourself to what I have asked you.

VOCKE: The memorandum had to deal with the question of currency, but at the same time, we made quite clear what we wanted: Limitation of foreign policy. That shows clearly what we wanted: Limitation of expenditure, limitation of foreign policy, of foreign policy aims. We pointed out that expenditure had reached a point beyond which we could not go, and that a stop must be put to it. In other words, the expenditure policy, that is the armaments program must be checked.

DR. DIX: Now tell us, did you anticipate the effect that that memorandum would have on Hitler? What did you expect, tactically?

VOCKE: Either the memorandum would result in a halt of this intolerable expenditure which had brought us to ruin—for at the end of 1938 there was no more money available, instead there was a cash deficit of nearly 1,000 million. That had to be faced, and the Minister of Finance was on our side. If this was not

recognized, then the smash would come and we would have to be released. There was no other alternative. We took the unusual step of getting the whole Directorate to sign this document.

DR. DIX: That, in my experience, is quite unusual, because generally an official document of the Reichsbank is signed by the President or his deputy, is it not?

VOCKE: That is true. We wanted to stress that the entire Directorate unanimously approved this important document which was to put an end to armaments.

DR. DIX: That, Witness, is clear. Have you any reason for believing that Hitler recognized that fact?

VOCKE: Yes, Hitler said something to the effect that that would be "mutiny." I think that is the word they use in the Army. I have never been a soldier, but I think that when a complaint is signed by several soldiers, it is looked upon as mutiny. Hitler had the same ideas.

DR. DIX: Yes, something like that does exist. But you were not present there. Who told you about that expression "mutiny"?

VOCKE: I cannot remember that any more. I believe it was Herr Berger of the Finance Ministry. But I cannot say exactly.

DR. DIX: So there was talk about this expression in ministerial circles?

VOCKE: Yes.

DR. DIX: Now, that memorandum also contained a compliment to Hitler, a reference to his success in foreign policy.

VOCKE: Yes, Schacht had adopted the habit of using flattery in his dealings with Hitler. The greater an opponent of the Hitler regime Schacht became, the more he made use of this flattery. Therefore, in that memorandum, at any rate at the beginning where he spoke of Hitler's successes, he also used those tactics.

DR. DIX: And what was the consequence of that memorandum? Please tell us briefly.

VOCKE: The result was that first Schacht was dismissed, then Kreide and Huelse, then I, Erhard, and Lessing. The result, however, was that they knew abroad what things had come to in Germany. My colleague Huelse had made unequivocal statements in Basel, and said that if we should be dismissed, then our friends would know to what pass things had come.

DR. DIX: Did Herr Huelse tell you that?

VOCKE: Yes, Huelse told me that.

DR. DIX: Your Lordship, shall we make a short pause here? I have not much more, but I still have the documentary evidence.

THE PRESIDENT: How much longer do you think you will take before you finish?

DR. DIX: It is very short and then the documentary evidence is also very short. Shall I continue?

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

DR. DIX: Now, Witness, you have described to the Tribunal how that dismissal of Schacht and yourself came about. Why did Schacht not take that step before? Did he talk to you about it?

VOCKE: No. Throughout the years 1936 and 1937 we could not make up our minds. At first there was still hope that Hitler would steer a reasonable course as a statesman. Finally, in 1938, we reached a crisis, particularly in connection with the Munich Agreement and then after the Munich Agreement. Then, indeed, there was real anxiety that things would lead to war, and we then saw that we had to force the decision.

However, one has to consider the following: As a bank we could not bring up political or military arguments or demands which were not within our competence. The danger of inflation, which we had stressed in that memorandum, did not show until 1938, when the note circulation during the last ten months had increased enormously—more than throughout the five preceding years.

DR. DIX: So that it was not until that year that, let us say, a pretext, a means, was found to take that leap?

VOCKE: Yes.

DR. DIX: Now I will end with a general question. The high intelligence of Dr. Schacht is not disputed—that he was disappointed in Hitler and deceived by him, he says himself. You yourself, with your knowledge of Schacht's personality must probably have had your own ideas as to how this mistake on the part of Schacht could be explained, how he could have been so deceived. Therefore, if the Tribunal permits, I should be grateful if you could give us your personal impressions about it, but . . .

MR. JUSTICE JACKSON: Your Honor, may I make an objection? I do not understand how the operations of Dr. Schacht's mind can be explained by someone else. I have had no objection to any facts which this witness has known. We have even let him detail here

at great length private conversations. However, speculation on Schacht's mental operations, it seems to me, is beyond the pale of probative evidence.

THE PRESIDENT: Dr. Dix, as I think I have said before, you cannot give by one witness the thoughts of another man; you can only give his acts and his statements.

DR. DIX: Yes, Your Lordship. When I put the question, I said "if the Tribunal permits." I, too, was aware of the question of admissibility . . .

THE PRESIDENT: You have the answer now: The Tribunal does not allow it.

DR. DIX: Then we will leave that question. May I ask Your Lordship this? Of course, I can still put questions about the treatment of the Jews by Schacht. I personally think that this chapter has been dealt with so exhaustively that it is not necessary for this witness to give us more examples of the attitude of Schacht. I would only ask to be permitted to put the same question concerning the Freemasons, because nothing has been stated about that.

[Turning to the witness.] Do you know anything about the treatment of Freemasons or the attitude of Schacht to Freemasons?

VOCKE: Yes. The Party demanded that the Freemasons should be eliminated from the Civil Service. Schacht said: "I refuse to let anybody tell me what to do. Everybody knows that I myself am a Freemason; how can I take action against officials simply because they belong to the Order of Freemasons?" And as long as Schacht was in office he kept Freemasons in office and promoted them.

DR. DIX: Now, one last question. Do you know whether Schacht ever received any gifts or had any economic advantages during Hitler's time beyond his regular income as an official?

VOCKE: No; that was quite out of the question for Schacht. Besides, he was never offered gifts. In all his dealings, as far as money was concerned, he was absolutely clean and incorruptible. I can give examples. For instance, when he left in 1930 he reduced his pension to less than half the pension of the vice president or of any board member. He said: "These people have devoted their whole life to the bank, whereas I have given only a few years incidental service." I could give more examples of Schacht's absolute correctness in that respect.

DR. DIX: I believe, if the Tribunal does not wish so, it will not be necessary to give further examples. That brings me to the end of my interrogation of this witness.

THE PRESIDENT: Does any other counsel for the defense wish to ask any questions?

DR. GUSTAV STEINBAUER (Counsel for Defendant Seyss-Inquart): Witness, do you remember the financial-political measures on the occasion of the annexation of Austria in March 1938; that is to say, in general terms?

At that time two laws were issued, both of 17 March 1938, one concerning the conversion of schillings into marks, and the other for the taking over of the Austrian National Bank by the Reichsbank.

Dr. Schacht, as a witness, stated yesterday that on 11 March he was asked what exchange rate he would consider correct in the event of an entry into Austria, and he answered that question by saying that according to the latest market rate two schillings for one Reichsmark would be correct.

After the Anschluss, my client, Dr. Seyss-Inquart, objected to the under-valuation of the schilling, and he succeeded in getting the schilling converted at 1.50 to the Reichsmark. Is that correct?

VOCKE: Before the entry into Austria I had not heard of any ratio being fixed by the Reichsbank Directorate. They were entrusted with that question only after the entry into Austria, and as experts and bankers they proposed a ratio which was in accordance with the conditions; and only a slight modification was made for the exchange. It was for the Government to make concessions, if it wanted to win over the Austrian population or make it favorably inclined.

DR. STEINBAUER: The second law deals with the Austrian National Bank. The witness Dr. Schacht has said today that the Austrian National Bank was not liquidated, but—as he expressed himself—amalgamated. I have looked up that law and it states expressly in Paragraph 2 that the Austrian National Bank was to be liquidated. That is Document Number 2313-PS. Now I ask you, Witness, do you know anything about it? Was the Austrian National Bank left in function as an issuing bank, or was it liquidated?

VOCKE: The right to issue notes in Austria, of course, went to the Reichsbank, which, as far as I know, took over the Austrian National Bank in Vienna and carried it on. I do not remember any details. My colleague Kesnick took care of that.

DR. STEINBAUER: But maybe you will remember if I quote from the official reports of the Austrian National Bank that the gold reserve of the Austrian National Bank in March 1933 amounted to 243 million schillings in gold and the foreign currency reserve to 174 million schillings, which means that roughly over 400 million schillings in gold were taken over by the Reichsbank from the Austrian National Bank.

VOCKE: I do not recall these facts any more; but if it was done, it was done by law, by the Government.

DR. STEINBAUER: Yes. I have that law of 17 March. I just wanted to correct a mistake which Herr Schacht must have made today unintentionally. The law he himself signed says "shall be liquidated." I have no other questions.

DR. LATERNSER: Witness, you said earlier that the fundamental difference between Dr. Schacht and the high military leaders was that he remained a free man in his attitude to the regime. I want to ask you now, since that statement seems to imply an opinion of the high military leaders: Which of the high military leaders do you know personally?

VOCKE: Not a single one.

DR. LATERNSER: Then would you maintain that opinion?

VOCKE: In our circle of the Reichsbank Herr Keitel and other gentlemen were considered too servile and too acquiescent toward Hitler.

DR. LATERNSER: But since you had no personal acquaintance with these people do you think that you can express a somewhat critical opinion on them, as you have done?

VOCKE: Yes, I think so.

DR. LATERNSER: I have no further questions.

THE PRESIDENT: Do any of the other counsel wish to cross-examine?

MR. JUSTICE JACKSON: Witness, when you met Dr. Schacht first, as I understood it, it was on the occasion of an official visit which you paid to Von Lumm in Brussels?

VOCKE: Yes.

MR. JUSTICE JACKSON: During the first years of the first World War?

VOCKE: Yes.

MR. JUSTICE JACKSON: Schacht then held some position on Von Lumm's staff?

VOCKE: Yes.

MR. JUSTICE JACKSON: What was his position, Schacht's?

VOCKE: I cannot say that. He was just one of the staff. How I came to meet him was that on one occasion when I was sent to Brussels to discuss something with Von Lumm, the latter took the opportunity to introduce his collaborators and among them was Schacht. We were merely introduced.

MR. JUSTICE JACKSON: And what was Von Lumm's position? What was he doing in Brussels?

VOCKE: He was Commissioner for Banking with the General Command.

MR. JUSTICE JACKSON: General Command of the German Army?

VOCKE: Commissioner for the Banks with the Occupation Army.

MR. JUSTICE JACKSON: Named by Germany.

VOCKE: Without doubt.

MR. JUSTICE JACKSON: Well, he was a German, not a Belgian?

VOCKE: Yes, he was a German.

MR. JUSTICE JACKSON: Now, some time after that Schacht was dismissed by Von Lumm, was he not?

VOCKE: Yes.

MR. JUSTICE JACKSON: And you had a discussion with Von Lumm about that and also you had one with Schacht about it, did you not? Tell me whether you had the visit . . .

VOCKE: I read the official reports in Berlin about the dismissal of Schacht. I was working in the Reich Office of the Interior. I only spoke about these things with Schacht when he became Reichsbank President and he spoke to me about it one day.

MR. JUSTICE JACKSON: Now, before Schacht went on the staff of Von Lumm, he was director of the Dresdner Bank.

VOCKE: Yes.

MR. JUSTICE JACKSON: And the dismissal was because Schacht had delivered to that bank a considerable amount of Belgian francs.

VOCKE: Yes. I do not know how large that amount was.

MR. JUSTICE JACKSON: But it was considerable.

VOCKE: Maybe.

MR. JUSTICE JACKSON: And that, Von Lumm thought, gave to the Dresdner Bank an advantage which was incompatible with Schacht's duties as a public official?

VOCKE: That, at any rate, was Von Lumm's view. He took a very serious view, which Schacht, not being a civil servant, could not quite appreciate.

MR. JUSTICE JACKSON: And Von Lumm called a meeting and reproached Schacht?

VOCKE: Yes.

MR. JUSTICE JACKSON: Schacht then gave an answer to Von Lumm which Von Lumm considered was not sincere, but was merely a lie?

VOCKE: Yes. That was Von Lumm's point of view.

MR. JUSTICE JACKSON: Now, that is what Von Lumm told you about?

VOCKE: That was in the written report which I have read.

MR. JUSTICE JACKSON: Now, when you came to talk to Schacht about it and about his answer to Von Lumm, Schacht told you that it was perhaps not quite an open answer, but not a lie?

VOCKE: Yes.

MR. JUSTICE JACKSON: However, having heard both sides of it, you along with all of the other directors of the Reichsbank were opposed to Schacht's appointment as President, as you have testified

VOCKE: Yes.

MR. JUSTICE JACKSON: And you took the view, along with all the other directors, that the behavior of Dr. Schacht in the Belgian bank affair was not quite fair and not quite correct?

VOCKE: Yes.

MR. JUSTICE JACKSON: Now, when Dr. Schacht came back to the Reichsbank under the Nazi regime, as I understand it, there was a good deal of resentment and reserve against him on the part of the Reichsbank Directorate, because he "in our eyes then was a Nazi. He was in close touch with Hitler and kept some things secret from us, his colleagues." That is correct, is it not?

VOCKE: I could not say that. It is true there was a feeling against Schacht. As I explained before, because we had assumed, and I had assumed—though we were wrong about it—that he was a Nazi. It is possible that Schacht did keep things secret from us, but at any rate I do not know whether he did, or what those things were.

MR. JUSTICE JACKSON: Now, did you not say in a statement that he was in close touch with Hitler and kept some things secret from "us, his colleagues"?

VOCKE: I do not know whether he kept things secret from us. It is possible, but I could not prove it.

MR. JUSTICE JACKSON: Is it not true that years later, when already some fatal moments were reached in the currency system, circulation, price and wages system, "rumors came to our ears through semiofficial channels that Dr. Schacht had given Hitler the promise to finance armaments"? Did you not say that?

VOCKE: That Schacht had given the promise to Hitler? Well, in certain circles there were rumors of that nature. Whether it is true I could not say.

MR. JUSTICE JACKSON: Now, you felt after the Munich Agreement and after Hitler's speech at Saarbrücken that that destroyed all hopes of peace, did you not?

VOCKE: Yes.

MR. JUSTICE JACKSON: And from that date, together with Pilseck, you did all in your power to persuade Schacht that a decision had to be forced?

VOCKE: Yes.

MR. JUSTICE JACKSON: Dr. Schacht agreed with you, but hesitated to take the decisive step?

VOCKE: Yes. He said—Schacht was not against it in principle, but he wanted to decide himself when our memorandum should be submitted, and as this memorandum was to be signed by all of us, and each one of us wanted to make corrections, the handing in of this memorandum was delayed from October until 7 January.

MR. JUSTICE JACKSON: The agreement was prepared by you and Pilseck?

VOCKE: Yes.

MR. JUSTICE JACKSON: And you approached Dr. Schacht again and again on it?

VOCKE: Yes.

MR. JUSTICE JACKSON: And he kept the draft all this time and told you that he was in doubt about the best moment to bring it before Hitler?

VOCKE: Yes.

MR. JUSTICE JACKSON: And it was not until Hitler refused to see him at Berchtesgaden that he finally sent him the memorandum?

VOCKE: That I do not know. I have heard here for the first time that Hitler refused to receive Schacht at Berchtesgaden. It may be. I only heard that Schacht was at Berchtesgaden, and after his return, according to my recollection, he talked about his meeting with Hitler and that now the moment had come to send him the memorandum.

MR. JUSTICE JACKSON: Well, your memorandum is the only source of my information, and according to my translation it says: "Finally, in December 1938, he resolved to sign it after a last attempt to speak with Hitler in Berchtesgaden."

VOCKE: Yes.

MR. JUSTICE JACKSON: At that time, there was something of a financial crisis.

VOCKE: Yes.

MR. JUSTICE JACKSON: Considerable difficulty, inflation was just around the corner, as you might say.

VOCKE: The Government was confronted with the 3,000 million mefo bills which were about to fall due and which had to be covered, and the Minister of Finance had a cash deficit of 1,000 million. The Minister of Finance came to see us and asked us to tide it over, because otherwise he could not pay the salaries on 1 January. We refused. We did not give him a single pfennig. We told him that the best thing that could happen would be that bankruptcy should become manifest in order to show how impossible it was to continue this system and this policy. He then received money from private banks.

MR. JUSTICE JACKSON: And you and Huelse, particularly Huelse, had long warned against this course of the Reichsbank, is that not true?

VOCKE: No, that is not true.

MR. JUSTICE JACKSON: Had not you and Huelse, long before this, warned that this mefo business would end up in trouble?

VOCKE: Of course, the Reichsbank had for years fought against the mefo bills, which were to mature in March 1938, and from then on the Reichsbank did not give any more armament credits.

MR. JUSTICE JACKSON: Now, after his dismissal from the Reichsbank, you very frequently discussed matters with Schacht and you found that he had turned very bitter against the Government. Is that not true?

VOCKE: I did not have frequent meetings with Schacht. We met every few months in the beginning and then, when Schacht went to Guehlen, our meetings stopped; I saw him there only once or twice. But it was not only after his dismissal that Schacht became a bitter enemy of Hitler, but he had been that during the whole of 1938.

MR. JUSTICE JACKSON: And you said, "I think in his heart he hoped he would be called after Hitler's defeat to help build a new and better order of things in Germany"?

VOCKE: Certainly. Schacht spoke to me in Guehlen about the men who would have to come after Hitler had been finally overthrown, and in conversation we mentioned the ministers who then could save Germany from despair, and Schacht was certain that he also would be called in to assist.

MR. JUSTICE JACKSON: No further questions, Your Honor.

THE PRESIDENT: Do any of the other Prosecution Counsel want to cross-examine?

DR. DIX: Herr Vocke, in reply to the questions of Mr. Justice Jackson, you have explained the attitude and the statement of Herr Von Lumm about the incident in Brussels. You also told the Tribunal about the statement by Minister Severing, which he made about that incident not so long ago.

VOCKE: Yes.

DR. DIX: Did you not also speak to the President of the Supreme Court of the Reich, Simons, who was at that time in the Foreign Office and knew the case very well? Did you not speak to him about that case?

VOCKE: Yes, I spoke to him and Ministerial Director Lewald. At that time I was a young assistant judge.

DR. DIX: You will have to tell the Tribunal who Lewald was.

VOCKE: It is correct that I spoke to Simons, who later became President of the Supreme Court of the Reich, and to His Excellency Lewald, who later became Undersecretary of State in the Reich Office of the Interior, about these matters which came officially to my knowledge in my capacity as expert in the Reich Office of the Interior.

Both gentlemen smiled at the self-important attitude of Von Lumm who made mountains out of mole hills and also at the misfortune of Herr Schacht. They smiled benevolently and saw the whole thing as a tremendous exaggeration.

DR. DIX: Thank you, that is enough. I have no further questions.

However, if the Tribunal will permit me, I should like to point out that Schacht mentioned here that on 2 January 1939 he spoke at great length to Hitler, in Berchtesgaden. I do not know whether I am confusing that with a statement made by a witness or with a statement made by him. I just wanted to point it out. If he were still sitting here as a witness, he could tell us about it.

Your Lordship, I bring that up because it was stated by Mr. Justice Jackson that Hitler did not receive Schacht in Berchtesgaden and that that was the cause of Schacht's decision to forward that memorandum. I only mention, as this witness here cannot know it, that Schacht did speak to Hitler. If he did not say so this morning or yesterday, he will say it at any time.

I cannot remember now. Sometimes one confuses private information with what one has heard in the courtroom.

THE PRESIDENT: Put the microphone where the Defendant Schacht can speak from there and ask him the question.

[The microphone was placed before the defendant.]

DR. DIX: Dr. Schacht, you have witnessed the cross-examination. Would you like to tell the Tribunal what happened?

SCHACHT: When I spoke here I said that I had a long conversation on 2 January 1939 with Hitler at Berchtesgaden on the Obersalzberg, and that after that conversation, in which the suggestion was put to me to create an inflation, I considered that the time had come to take that step which the Reichsbank afterwards took, to dissociate itself from Hitler and his methods.

[The microphone was returned to the witness.]

THE PRESIDENT: There is one question I want to ask you, Witness. Did the Defendant Schacht ever tell you that he had been appointed Plenipotentiary General for War Economy?

VOCKE: Yes.

THE PRESIDENT: When?

VOCKE: Well, I believe he was appointed to that office in 1935. I believe that is the date. I could not say for certain.

THE PRESIDENT: I did not ask you when he was appointed. I asked you when he told you.

VOCKE: I cannot recall that because we had nothing to do with these things. I only know that either in 1935 or 1936—I believe it was 1935—he received such an appointment.

THE PRESIDENT: Yes. The question I asked you was: Did the Defendant Schacht ever tell you that he had been appointed?

VOCKE: Yes.

THE PRESIDENT: When did he tell you?

VOCKE: I think in 1935.

THE PRESIDENT: The witness can retire.

DR. DIX: May I put one last question to this witness?

Witness, did you have any idea of the importance of that office?

VOCKE: No. I never heard that Schacht had done anything in that function except that he had special letter headings for this. His activity in the Reichsbank continued in the same way as previously, without his selecting a staff for that office, and without—at least as far as my knowledge goes—his using the premises and facilities of the Reichsbank for this new office.

DR. DIX: Have you any knowledge as to whether he had a separate office or a separate staff for carrying on his activity as Plenipotentiary?

VOCKE: You mean commissioner general for armaments?

DR. DIX: Plenipotentiary for War Economy.

VOCKE: No, he had no separate office, and as I have said before, as far as I know he never had a staff.

THE PRESIDENT: The witness can retire.

[The witness left the stand.]

DR. DIX: May I begin with my documents? I can make the presentation of documents very brief and I am sure that I will conclude it before the end of the session, because I had an opportunity to submit a large portion of my documents during the interrogation of witnesses. May I make the general request that judicial notice be taken of everything I have not read and everything I do not propose to read. In this connection, I should like to point out that the entire contents of my document book have, with one exception, either been submitted or will be submitted now as exhibits. The exception, the document which has not been submitted, is Exhibit Number 32. That is the frequently mentioned article of the *Basler Nachrichten* of 14 January 1946, which, for the reasons mentioned yesterday, has not been and will not be submitted by me.

I come now to Volume I of my document book, to the exhibits which have not yet been submitted; that is, first Exhibit Number 5 (Document Schacht-5) Adolf Hitler's Reichstag speech of 23 May 1933. That exhibit was read by Schacht in the course of his interrogation and is now being submitted.

I further submit Exhibit Number 23 (Document Schacht-23), the letter from Schacht to Hermann Göring, of 3 November 1942. Although that letter has been submitted by the Prosecution, we submit it again, and for the following reasons: In the copy which was submitted by the Prosecution, the date and the year were left out and, of course, as it has been translated literally, also in our copy. However, a confirmatory note by Professor Kraus based on the testimony given by Schacht has enabled us to make a note on it to the effect that it must be the letter of 3 November 1942, because it was that letter which caused the dismissal in January 1943. It is only submitted in order to make it easier for the Tribunal to ascertain the date. That was Exhibit Number 23.

Then I wish to submit Exhibit Number 27 (Document Schacht-27). I am not going to read it; I only ask that judicial notice be taken of it. That is the address given by Dr. Schacht at the celebration meeting of the Reich Economic Chamber in January 1937.

Then I submit Exhibit Number 29 (Document Schacht-29), excerpts from the book by Gisevius, which we want to put into evidence, and I ask you to take judicial notice. I will not read anything.

Exhibit Number 33 (Document Number Schacht-33) in my document book is a letter from a certain Morton, a former citizen of Frankfurt-on-Main, who emigrated to England, a man who was highly respected in Frankfurt. The letter is directed to the Treasury Solicitor in England and we have received it here from the Prosecution. I also ask that judicial notice be taken of its contents and want to read only one sentence on the last page. I quote:

> "I last heard from Schacht indirectly. Lord Norman who was then Mr. Montague Norman, Governor of the Bank of England, told me confidentially in 1939 shortly before the outbreak of the war, that he had just come back from Basel where he had seen Schacht who sent me his greetings. Lord Norman also told me that Schacht, who had returned to Germany from Basel, was in great personal danger as he was very much in disgrace with the Nazis."

That concludes Volume I of my document book and I pass on to Volume II, which begins with the affidavits. I must go through the individual affidavits, but I shall not read any.

The first is Exhibit Number 34 (Document Schacht-34), which has frequently been quoted, the affidavit of the banker and Swedish Consul General, Dr. Otto Schniewind, who is at present in Munich. It is a very instructive and very exhaustive affidavit and in order to save time—there are 18 pages which would take up a lot of time—I will confine myself to what I have read from this affidavit; I ask the Tribunal to take judicial notice of the remainder. It has already been submitted.

However, I still have to submit Exhibit Number 35 (Document Schacht-35), which has not yet been submitted. I beg your pardon, but it has been submitted before. It is the affidavit of Dr. Franz Reuter. I submitted it when I spoke here about the biased nature of this biography. I ask you to take judicial notice of the rest of this affidavit.

The next Exhibit Number 36 (Document Schacht-36) is an affidavit by Oberregierungsrat Dr. Von Scherpenberg, formerly Embassy Counsellor at the Embassy in London, afterwards departmental chief at the Foreign Office and now at the Ministry of Justice in Munich, the son-in-law of Dr. Schacht. I have read a passage and I ask that judicial notice be taken of the unread portion.

The next is Exhibit Number-37(a) (Document Schacht-37(a)). It has been submitted. Here also a passage on Page 154 of the German text has been read, about the warning signal given abroad when Schacht resigned as Reichsbank President. I ask that judicial notice be taken of the remainder.

The next affidavit is by the same gentleman, who was also a colleague of Dr. Schacht in the Reichsbank Directorate at the same time as the witness Vocke, whom we have just heard. I submit it. There is no need to read anything. I only ask you to take judicial notice of its contents.

The next affidavit, Exhibit Number-37(c) (Document Schacht-37(c)) is by the same gentleman and has already been submitted. I ask you to take judicial notice of its contents. There is no need to read anything.

The next is Exhibit Number 38 (Document Schacht-38), an affidavit by General Thomas. It has not been submitted yet, and I submit it now and ask to be permitted to read one passage, beginning on the first page; that is Page 172 of the English text and Page 164 of the German text:

"Question: Schacht claims to have influenced Blomberg to delay rearmament. Can you give any information on this matter? When was it?

"Answer: I was Chief of the Army Economic Staff, that is the Army Economic and Armament Office at the High Command of the Wehrmacht (OKW) from 1934 to the time of my dismissal in January 1943. In this capacity I had connection with the Reich Minister of Economics and Reich Bank President Hjalmar Schacht. Up till 1936 Schacht undoubtedly promoted rearmament by making available the necessary means. From 1936 on he used every opportunity to influence Blomberg to reduce the tempo and extent of rearmament. His reasons were as follows:

"1. Risk to the currency.

"2. Insufficient production of consumer goods.

"3. The danger to the foreign policy, which Schacht saw in excessive armament of Germany.

"Concerning the last point he frequently spoke to Blomberg and me and said that on no account must rearmament be allowed to lead to a new war. These were also the reasons which led him to hold out to Blomberg in 1936 and again in 1937 the threat that he would resign. On both of these occasions I was delegated by Blomberg to dissuade Schacht from carrying out his threat to resign. I was present during the conference between Blomberg and Schacht in 1937."

I ask you to take judicial notice of the remainder of that affidavit by General Thomas.

The next Exhibit is Number 39 (Document Schacht-39); parts of it have been read, that is to say, the part Schacht played in the incident of the 20th of July together with General Lindemann; it is

the affidavit by Colonel Gronau. I ask the Tribunal to take judicial notice of the remainder.

The same applies to the next Exhibit Number 40 (Document Schacht-40). That is a sworn statement, also by a colleague of Schacht in the Ministry of Economics, Kammerdirektor Asmus, now in retirement. I have also read parts of this already, namely, the passages concerning the happenings at the time of the dismissal as Minister of Economics; and I ask you to take judicial notice of the remainder.

Then we come to Exhibit Number 41 (Document Schacht-41), which is the affidavit by State Secretary Carl Christian Schmid, also in retirement. I have not yet read anything and I ask to be permitted to read two passages.

The first one is on Page 182 of the German text; Page 190 of the English text:

"When the Brüning Cabinet, which had been arranged by General Von Schleicher . . ."—That is not legible. I think that should be different, but it is not legible.—"When that was torpedoed by Schleicher himself, Schacht considered the early appointment of Hitler as head of the Government to be unavoidable. He pointed out that the great mass of the German people said 'Yes' to National Socialism, and that the Left as well as the Center had come to a state of complete passive resignation. The short life of the transition cabinets of Papen and Schleicher was clear to him from the very beginning.

"Schacht decisively advocated the co-operation in National Socialism of men experienced in their respective fields, without acceptance of its program as a whole, which he always referred to ironically, later frequently calling it 'a really bestial ideology' in conversation with me; but he held that the influencing of developments from important inner power positions was an absolute patriotic duty, and he strongly condemned emigration and the resort to easy armchair criticism."

And then on Page 184 of the German text, 192 of the English text, two very short passages:

"I recall numerous talks with Dr. Schacht in which he stated that war was an economic impossibility and simply a crazy idea, as, for instance, when he was in Mülheim at the house of Dr. Fritz Thyssen, who was closely associated with Göring and Hitler before 1933 but was in strong opposition from 1934 on and also opposed any idea of war as madness."

And, then, further down on the same page, only one sentence:

"When Schacht spoke to me he used to refer ironically to the Himmler-Rosenberg Lebensraum plans against Russia as an

example of the mad presumption of extremist Party circles. Schacht's special fad was an understanding with England,"

and so on; and I ask you to take judicial notice of the remainder of the document.

The same applies to the whole of Exhibit Number 42 (Document Schacht-42), an affidavit by the director of the Upper Silesian Coke Works, Berckemeyer.

I come now to Exhibit Number 43 (Document Schacht-43). That has already been submitted and read in part. It is the correspondence between the publisher of Ambassador Dodd's Diary and Sir Nevile Henderson. I ask you to take judicial notice of the part not yet read, and whatever comes after Exhibit 43 has been submitted. I ask you to take judicial notice of its contents, and I forego the reading of it.

That brings me to the end of my presentation in the case of Schacht.

THE PRESIDENT: Now the Tribunal will continue the case against the Defendant Funk.

DR. FRITZ SAUTER (Counsel for Defendant Funk): Mr. President, with your permission I call first the Defendant Dr. Funk himself to the witness box.

[The Defendant Funk took the stand.]

THE PRESIDENT: Will you state your full name, please?

WALTER FUNK (Defendant): Walter Emanuel Funk.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The defendant repeated the oath in German.]

THE PRESIDENT: You may sit down.

DR. SAUTER: Mr. President, may I begin with one observation: The Defendant Funk has been a sick man for many years now, and before he came into the prison he had been in hospital for some time. He was supposed to undergo an operation, which, however, due to conditions at the time, could not be carried out. He still is under medical treatment. In consideration of that fact, and because the defendant is extremely anxious to conclude his own interrogation as soon as possible, I shall put only those questions to the defendant which are absolutely necessary to give you a clear picture about his person and his activities.

[Turning to the defendant.] Witness, when were you born?

FUNK: On 18 August 1890.

DR. SAUTER: So you are now 56?

FUNK: Yes.

DR. SAUTER: First, I want to put to you the most important particulars of your life, and to simplify matters you may answer only with "yes" or "no."

You are 56 years old. You were born in East Prussia?

FUNK: Yes.

DR. SAUTER: You come from a merchant's family in Königsberg?

FUNK: Yes.

DR. SAUTER: Then you studied in Berlin at the university, law and political science, literature and music. You also come from a family which has produced a number of artists.

FUNK: Yes.

DR. SAUTER: During the World War you were first in the Infantry, and in 1916, because of a bladder ailment, you became unfit for service?

FUNK: Yes.

DR. SAUTER: Then you became an editor with several large newspapers, and you told me that for a long time you could not make up your mind whether to become a musician or a journalist. Then you decided for the latter, and in 1922, I believe, you became editor in chief of the *Berliner Börsenzeitung.* Is all that correct?

FUNK: Yes.

DR. SAUTER: Now perhaps you will tell us what were the political tendencies of that paper on which you worked for about ten years as editor in chief?

FUNK: The tendency of the paper was somewhere between the Center and the Right. The newspaper was not tied to any party. It was owned by an old Berlin family of publishers.

DR. SAUTER: What was the attitude of that paper to the Jewish question before you took on the editorship and during the time when you were editor in chief?

FUNK: Absolutely neutral. It did not deal in any way with the Jewish question.

DR. SAUTER: From an affidavit by Dr. Schacht, I have seen that at that time—that is to say, during the twenties—you moved in circles which were also frequented by Jews, and where economic and political matters, such as gold currency, *et cetera,* were often discussed. Is that correct?

FUNK: I do not know anything about that.

DR. SAUTER: Dr. Schacht has asserted that in an affidavit of 7 July 1945 (Document Number 3936-PS).

FUNK: I had a lot to do with Jews. That was in the nature of my profession. Every day at the stock exchange I was together with 4,000 Jews.

DR. SAUTER: Then in 1931 you resigned your post as editor in chief?

FUNK: Yes.

DR. SAUTER: What were the reasons for that?

FUNK: I was convinced that the National Socialist Party would come to power in the Government, and I felt called upon to make my own political and economic opinions heard in the Party.

DR. SAUTER: Would you like to explain a little more in detail what kind of opinions you had, Dr. Funk, especially concerning the clashes between parties, between classes at that time?

FUNK: The German nation at that time was in sore distress, spiritually as well as materially. The people were torn by Party and class struggle. The Government, or rather the governments, had no authority. The parliamentary system was played out, and I myself, for 10 or 12 years before that, had protested and fought publicly against the burden of the Versailles reparations, because I was convinced that those reparations were the chief cause of the economic bankruptcy of Germany. I, myself, have fought all my life for private enterprise, because I was convinced that the idea of private enterprise is indissolubly bound up with the idea of the efficiency and worth of individual human beings. I have fought for the free initiative of the entrepreneur, free competition, and, at that time in particular, for putting an end to the mad class struggle, and for the establishment of a social community on the basis of the industrial community.

All those were ideas to which I found a ready response in my conversations, particularly, with Gregor Strasser.

DR. SAUTER: Who was Gregor Strasser, would you tell the Tribunal briefly?

FUNK: Gregor Strasser at that time was leader of the Reich Organization Office of the National Socialist Party and was generally considered to be the second man after Adolf Hitler. I have . . .

THE PRESIDENT: This is the time to break off.

[The Tribunal adjourned until 4 May 1946 at 1000 hours.]

ONE HUNDRED AND TWENTY-FIRST DAY

Saturday, 4 May 1946

Morning Session

[The defendant resumed the stand.]

DR. SAUTER: Mr. President, may I continue the examination of the Defendant Funk?

Dr. Funk, yesterday you gave us a brief account of your life, told us that you are 56 years of age, that you have been married for 25 years, that you were editor of the *Berliner Börsenzeitung* for 10 years; and in conclusion you told us yesterday what your convictions were regarding the future development of Germany.

Perhaps you can again tell us something of your viewpoint, since you were interrupted by the recess yesterday and since your health was in such a poor state yesterday evening that you could scarcely remember what you had told the Court. Well, what were your views on Germany's economic prospects at the time when you entered the Party? Perhaps you can go over it briefly again.

FUNK: At that time Germany was in the midst of a very difficult economic crisis. This crisis was caused chiefly by the reparations, the way in which these reparations had to be paid, and by the inability of the governments then in office to master the economic problems. The most disastrous feature of the reparations policy was that German mark credits in immense sums were transferred to foreign countries without receiving any equivalent in return. As a result there was a tremendous surplus and overpressure of Reichsmark abroad. It led to inflation in Germany and the countries with stable currencies bought Germany out. German industry incurred heavy debts and consequently came temporarily under foreign control; German agriculture became indebted. The middle classes, who were the chief representatives of German culture, were impoverished. Every third German family was unemployed, and the Government itself had neither the power nor the courage to master these economic problems. And these problems could not be solved by means of economic measures alone. The first essential was the presence of a government possessing full authority and responsibility; and then the development of a unified political will among the people.

The National Socialists at that time captured 40 percent of the seats in the Reichstag; the people streamed to this Party in ever-increasing millions, especially the young people who were animated by idealism. The fascinating personality of the Führer acted as a giant magnet. The economic program of the Party itself was vague; and in my opinion it was drawn up mainly with an eye for propaganda purposes. There were lively arguments about it in Party circles with which I came in contact in 1931.

At that time, therefore, I decided to give up my position as editor of a paper with a large circulation among the middle classes and to start on my own by editing an economic and political news service which went to the most diverse sections of economy, to leading Party circles as well as to economically interested parties siding with the German National Party, the People's Party, and even the Democrats.

DR. SAUTER: Dr. Funk, you said before, approximately, that according to the opinion you expressed in 1931, only a government with full authority and full responsibility, that is, only a strong state and a unified political will, could lead Germany out of the crisis of that time, which was, of course, merely a part of the world crisis. Did you at that time ever reflect as to whether the Leadership Principle which was later developed to an increasing extent—whether this Leadership Principle could be made to harmonize with your ideas of economic policy? Or, putting it negatively, did you at that time anticipate great wrongs as a result of this Leadership Principle?

What can you say on this point?

FUNK: As to a principle of government, well, that is, a Leadership Principle, one can never say *a priori* whether it is good or bad. It depends on existing circumstances and, above all, on those who do the governing. The democratic-parliamentary principle had not been successful in Germany. Germany had no parliamentary and democratic tradition, such as other countries had. Conditions, finally, were such that when the government made decisions, the few votes of the economic party were decisive; and these were mostly bought. Therefore, another principle had to be made the dominant one; and in an authoritarian government, if those who bear the authority and the responsibility are good, then the government also is good. The Leadership Principle meant, in my opinion, that the best men and the best man should rule and that authority would then be exercised from above downwards and responsibility from below upwards. And in conversations with Hitler and other leading personalities of the Party in 1931 and, as I said, from the faith and enthusiasm which the German people brought to this political movement, I formed the opinion that this Party would

have to come into power and that through it alone salvation could come. I, myself, wanted to put my own economic ideas into practice in this Party.

DR. SAUTER: Dr. Funk, you have just been speaking of the personality of Hitler. Through whom did you meet Hitler?—that is, who were persons in the Party by whom you were first won over to the Party?

FUNK: Chiefly, Gregor Strasser, as I said yesterday, who arranged my first meeting with Hitler. Not until much later, in Berlin, did I meet Hermann Göring. Apart from them I had very few acquaintances in the Party at that time and played no role in it myself.

DR. SAUTER: When you met Hitler what impression did he make on you at that time? I should like to say beforehand, you were at that time—1931, I think—a mature man of over forty. What impression did you have at that time of Hitler's personality and aims, *et cetera*?

FUNK: My first conversation with Adolf Hitler was very reserved. That was not surprising as I came from a world which was entirely strange to him. I immediately received the impression of an exceptional personality. He grasped all problems with lightning speed and knew how to present them very impressively, with great fluency and highly expressive gestures. He had the habit of then becoming absorbed in the problems, in long monologues, so to speak, in this way lifting the problems to a higher sphere. At that time I explained to him my economic ideas and told him especially that I upheld the idea of private property, which for me was the fundamental tenet of my economic policy and which was inseparable from the concept of the varying potentialities of human beings. He, himself, heartily concurred with me and said that his theory of economics was also based on selectivity, that is, the principle of individual productivity and the creative personality; and he was very glad that I wanted to work on those lines in the Party and to arrange contacts and support for him in the economic field—which I actually did. In the meantime, however, my relations with the Führer became no closer then, because he said to me himself, "I cannot, at present, commit myself to an economic policy; and the views expressed by my economic theorists, such as Herr Gottfried Feder, are not necessarily my own."

The economic policy section which existed at that time was directed by a Dr. Wagner.

DR. SAUTER: The economic policy section of what? Of the Reich Party Directorate?

FUNK: The economic policy section of the Reich Party Directorate was directed by a certain Dr. Wagner. I was not invited to political talks. A close connection with the Führer—or a closer connection with the Führer—I really had only in the year 1933 and the first half of 1934, when, as press chief of the Reich Government, I reported to him regularly. At that time it once even happened that he suddenly interrupted the press conference, went into the music room with me, and made me play the piano for him.

Then our relations became a little cooler again, and when I became Minister of Economics the Führer kept me more and more at a distance—whether he had special reasons for this, as Lammers testified here, I do not know. During my office as Minister, I was called in by the Führer for consultations perhaps four times—five at the most. But he really did not need me because his economic directives were given to the Reich Marshal, the responsible head of economic affairs, and later, from 1942 on, to Speer, since armament dominated the entire economy; and, as I said, I had close connections with him only in 1933 and in the first half of 1934 until the death of Reich President Von Hindenburg.

DR. SAUTER: Dr. Funk, you have got a long way ahead. We would like to return now to 1931 or 1932, to the time when you entered the Party. When was that?

FUNK: In the summer of 1931.

DR. SAUTER: The summer of 1931. You have already told the Court that you did not object to the Leadership Principle for the reasons you have stated.

FUNK: No, on the contrary, the Leadership Principle was absolutely necessary.

DR. SAUTER: On the contrary, you considered the Leadership Principle necessary for the period of emergency that then obtained. Now, I would be interested in knowing: There were other points of view, of course, also represented in the Party program which worked out unfavorably later on and have, in the course of this Trial, been used extensively against the defendants. I point out one example, for instance, the slogan of "Lebensraum"; you have heard it again and again during this Trial. The Defendant Dr. Schacht dealt with this problem also. Perhaps you can give us briefly your own position on this problem and on this question?

FUNK: The problem of living (Lebensproblem) is no slogan; and the problem of living was really a problem for the German people at that time. By "Lebensproblem" . . .

DR. SAUTER: You mean "Lebensraum"?

FUNK: . . . or "Lebensraum"—I did not mean the conquest of foreign countries at that time; the thought of war was just as strange to me as it was probably to most other Germans. By "Lebensraum" I meant the opening up of the world for the vital interests of Germany, that is, the participation of the German people in the profitable utilization of the world's goods of which there was a superabundance.

Whether that was to be done by colonies, or concessions, or international trade agreements, I did not trouble to find out at that time.

The expansion of Germany in the world economy before the first World War was the decisive factor which determined me to become an economic journalist. The participation of Germany in the Rumanian petroleum industry, the concession of the Bagdad Railway, the growing German influence in South America, in China, generally in the Far East—all this inspired me very much. At that time already I became acquainted with such men as Franz Günther of the Discount Bank, Arthur Von Gwinner of the Deutsche Bank, Karl Helferich, the big Hamburg importer, Witthöft, and many other German economic pioneers, and started on my profession with all the enthusiasm of the young journalist.

"Lebensraum" was thus for me at that time the fulfilling of these economic claims, that is, Germany's participation in the world's goods and the abolition of the restraints which hemmed us in on all sides. It was sheer nonsense that Germany on her part should have to pay reparations and debts while the creditor nations on their part refused to accept payment in the only form possible, that is, payment in goods and products.

That period marked the beginning of a great wave of protective tariffs in the world. I recall the American economic policy at that time; I recall the Ottawa agreements, and this mistaken economic policy led to a world economic crisis in 1929 and 1930 by which Germany also was badly hit.

DR. SAUTER: Dr. Funk, have you finished? *[The defendant nodded assent.]*

Dr. Funk, the Prosecution in their trial brief have contended that you participated in the formulation of the Nazi program. What can you tell us about that?

FUNK: I do not know what the Prosecution understands by Nazi program.

DR. SAUTER: I think—the Party program.

FUNK: That is quite impossible. The Party program, as far as I know, was formulated in 1921. At that time I did not know anything about National Socialism or of Adolf Hitler.

DR. SAUTER: Witness, the Prosecution has further accused you of setting up the so-called reconstruction program, the economic reconstruction program of 1932, that is, a program for the rehabilitation of German economic life. Is it correct that you established this economic reconstruction program?

FUNK: In 1932 I compiled for a speech by Gregor Strasser some points for an economic program which Strasser himself marked as originating from me. He passed these on to the various Party offices as instructions and propaganda matter.

This economic reconstruction program, which in the words of the Prosecution was to become the economic bible for the Party organizers, is, I believe, in no way revolutionary or even sensational; and it could, I believe, be adopted and accepted by every democratic government. I believe it is pointed out in a book from which the Prosecution has taken various bits of information.

DR. SAUTER: Perhaps it is printed, Witness, in the book by Dr. Paul Oestreich which has been repeatedly quoted. This book contains your biography under the title, *Walter Funk, A Life for Economy,* and has been used by the Prosecution under Document 3505-PS, Exhibit USA-653.

Dr. Funk, I have the text of this program before me.

FUNK: Please read it.

DR. SAUTER: The whole program covers half a page only and in the main sets forth really nothing which might be considered as characteristic of National Socialist trends of thought?

FUNK: Well, at that time I was not yet a National Socialist or, at least, but quite a young member of the Party.

DR. SAUTER: This economic reconstruction program must be actually read in order to convince oneself how little it contains of the characteristic National Socialist demands. This is a program which Funk says might be accepted by almost any liberal or democratic or other bourgeois party. The program is called, "Direct creation of employment through new State and private investments." That is the first demand. Then productive providing of credit by the Reichsbank but no inflation, rather the re-establishment of a sound currency and a sound financial and credit economy to promote production.

General lowering of rates of interests paying attention to individual conditions of the economy. Creation of a foreign trade office and a central foreign exchange office. Reorganization of economic relations with foreign countries, giving preference to the vital necessities of the domestic market but with special attention to the export trade absolutely necessary for Germany. Restoration of

sound public finances, including public insurances. Abolishment of the untenable methods of balancing the budget. State protection for agriculture. Reorganization of the system of house and land ownership in accordance with the principles of productivity and national health. Expansion of the German raw material basis, the establishment of new national industries and trades, organization of manufactories on the basis of technical innovations. That is all, which is comprised in this so-called economic reconstruction program.

FUNK: This program was to be, as the Prosecution has said, the official Party dogma on economic matters. I would have been glad if the Party had professed these principles. In later years I had great difficulties with these various Party offices in connection with my basic attitude on economic policy. I was always considered, even in Party circles, as a liberal and an outsider....

DR. SAUTER: A liberal?

FUNK: Yes. I combated all tendencies towards collectivism; and, for this reason, I constantly came into conflict with the Labor Front. I was supported, especially in my views regarding private property, by Reich Marshal Hermann Göring. Even during the war, he had parts of the Hermann Göring Works denationalized at my suggestion. I was an opponent of a nationalized economy because a nationalized economy will always produce only average results. Nationalized economy means sterile economy. An economy which is without keen competition and individual rivalry will remain stagnant and will achieve but average results. The Führer had, formerly, always agreed enthusiastically with these principles of mine. And it was a great disappointment to me when finally, in the last years, the Führer turned so sharply against the bourgeois world for that meant practically that the whole of my life's work had failed.

THE PRESIDENT: Dr. Sauter, the Tribunal thinks he might get on to something more important than his view on state economy and private enterprise.

DR. SAUTER: Yes, Mr. President.

[Turning to the defendant.] Dr. Funk, you know that it was precisely on account of the big problem of unemployment at the time that Hitler was able to grasp power. What plans did you have for the elimination of unemployment, since you knew that just that very promise...

THE PRESIDENT: Dr. Sauter, we have heard nearly all the defendants on the conditions which obtained in Germany at that time. And there is no charge against these defendants for German economy between the years 1933 and 1939.

DR. SAUTER: Mr. President, I wanted to ask the Defendant Dr. Funk just how he thought that unemployment could be abolished; for from the testimony of other defendants, I gathered that they planned to eliminate it by other means, such as rearmament, and so forth. As far as I know, this was not so in his case; and I think that in judging the Defendant Funk, the question of how he proposed to handle the elimination of unemployment, whether by rearmament or by some other means, is of some importance. I do not think it will take much time, Mr. President. The Defendant Funk, I am sure, will be very brief.

Perhaps he can . . .

THE PRESIDENT: He can answer that in a sentence, I should think.

DR. SAUTER: Herr Funk, be as brief as possible.

FUNK: If I am to answer this in one sentence, I can say only that at that time I envisioned the elimination of unemployment by a very precise plan, but at any rate without rearmament, without armament . . .

DR. SAUTER: But, instead?

FUNK: By methods which I would have to explain. But in any event, armament never came into question then . . .

DR. SAUTER: But—can you perhaps tell us in a few telling words?

FUNK: First of all, opportunities to work were offered everywhere so to speak. It was imperative to set up a large-scale road-building program in Germany; it was necessary to revitalize the engine industry, especially the automobile industry, which, of course, had to be appropriately protected. An extensive house building program was needed; hundreds of thousands of houses were required . . .

DR. SAUTER: In short . . .

FUNK: Agriculture lacked mechanization and motorization.

I should like to give here, however, only two figures, two ratios, which throw light on the whole situation. Up to the war two-thirds of Germany's total production went to private consumption and only one-third for public needs. Up to that point, therefore, the armament industry did not play a decisive role.

DR. SAUTER: Dr. Funk, now we will turn to another chapter.

You will remember that the Prosecution contended in their trial brief that the evidence against you was largely circumstantial. I assume, therefore, that it was based upon your offices rather than

your actions. For this reason I should be interested to know which Party offices you held during the period which followed.

FUNK: Only once, in the year 1932 . . .

DR. SAUTER: That is to say in the Party—not government offices.

FUNK: I understand. Only in the year 1932, and then for only a few months, did I receive Party assignments, because Gregor Strasser wanted to set up for me an office of my own, for private economy. This office, however, was dissolved a few months later when he himself resigned from the Party and from his offices. Then in December 1932 I was instructed to take charge of a committee for economic policy.

DR. SAUTER: In December 1932?

FUNK: Yes. And in February 1933, that is, 2 months afterwards, I gave up this office again. Both assignments were unimportant and never really got going in the short time they lasted. All the gentlemen in the dock who were in leading positions in the Party at that time can confirm this. I never had any other Party office; so that after 1933 I received no further assignments from the Party and no Party office either.

DR. SAUTER: Then this so-called Office for Private Economy (Amt für Privatwirtschaft), if I understood you correctly, existed for just a few months in the year 1932 but did not actually function. And in December 1932 you were made head of the other office, the Committee for Economic Policy as it was called. Then a month later, in January 1933 . . .

FUNK: February 1933.

DR. SAUTER: February 1933, shortly after the seizure of power, you gave up this so-called office. Is that correct?

FUNK: Yes.

DR. SAUTER: Now for your connection with the Party. Were you a member of any organization of the Party—SA, SS, or any other section of the Party?

FUNK: I never belonged to any organization of the Party, neither SA nor SS, nor any other organization; and as I have already said, I did not belong to the Leadership Corps.

DR. SAUTER: You did not belong to the Leadership Corps?

FUNK: No.

DR. SAUTER: You know, Dr. Funk, that the Party functionaries, that is, the Party veterans, and so forth, met annually in November at Munich. You have yourself seen a film showing this anniversary meeting.

Were you ever invited to these gatherings on 8 and 9 November?

FUNK: I do not know whether I received invitations; it is possible. But I have never been at such a gathering, for these meetings were specially intended for old Party members and the Party veterans, in commemoration of the March on the Feldherrnhalle. I never participated in these gatherings, as I was averse to attending large gatherings. During all this time I attended a Party rally only once, just visiting one or two functions. Mass gatherings always caused me physical pain.

DR. SAUTER: Witness, did you receive the Golden Party Badge, after you became Minister for Economics?

FUNK: No; I received that when I was still press chief of the Reich government.

DR. SAUTER: You did not get it as Minister?

FUNK: No.

DR. SAUTER: How long were you a National Socialist deputy of the Reichstag?

FUNK: For just a few months.

DR. SAUTER: From when to when?

FUNK: From July 1932 to February 1933. I did not get another seat, because the Chairman of the Party, the chairman of the parliamentary group, Dr. Frick, informed me that, by a directive of the Führer, only the old Party members would receive mandates; and I had received a state position in the meantime.

DR. SAUTER: Witness, in regard to the laws which are of particular importance in this Trial, such as the Enabling Act, which practically eliminated the Reichstag; the law forbidding political parties; or the law for the unity of Party and State—in respect to all these laws, which were in preparation for later developments, were you still a member of the Reichstag at that time or had you already ceased to be one?

FUNK: I was no longer a Reichstag deputy. But even so, I considered these laws necessary.

DR. SAUTER: That is another question. But you were no longer a Reichstag deputy?

FUNK: No; and I was not a member of the Cabinet, either.

DR. SAUTER: Dr. Funk, we have frequently seen and heard of an affidavit by the American Consul General, Messersmith, dated 28 August 1945, Document 1760-PS. He says in the passage which concerns you:

"He had been the editor of one of the leading financial journals in Berlin before the Nazis came in and had very little open Nazi sympathy when they did come in."

He goes on to say:

"... later he became an ardent Nazi and one of their most effective instruments because of his undoubted capacities in various fields."

That is what the American Consul General, Messersmith, says about you. I should like to remind you of another passage from the book by Dr. Oestreich, which I have already mentioned and which has the title *Walter Funk, A Life for Economy.* That is 3505-PS, which has already been used and submitted in these proceedings.

In this book the author says that the assignments given to you by the Party, even if they covered a period of a few months only, might be regarded as particularly important.

What can you tell us about these two quotations?

FUNK: I have already stated that I declared myself for the Party and took up my Party work with enthusiasm. I was never attached to the propaganda organization, as has been asserted by Mr. Messersmith. I cannot remember that I ever knew Mr. Messersmith at all; nor do I remember discussing Austria with him, which he also asserts.

DR. SAUTER: Nor the Anschluss of Austria to Germany?

FUNK: I cannot remember that, although of course I considered the union of Germany and Austria necessary; but I do not recall discussing it with Mr. Messersmith.

As far as Dr. Paul Oestreich's book is concerned, I am sorry that the Prosecution has used this book as a source of information. Mistakes have arisen which could have been avoided and which I would not have to refute here now. Oestreich was a man who was quite outside the Party.

DR. SAUTER: What was he?

FUNK: He owned a German newspaper in Chile, and for some years he was political editor of the *Berliner Börsenzeitung.*

DR. SAUTER: Political editor?

FUNK: First of all, he naturally wanted to secure a market for his book; and for that reason he exaggerated the importance of my position in the Party. He may have thought that in this way he would do me a particular favor. In any case, as things have been described there, they are not correctly stated.

DR. SAUTER: Witness, in Document Number 3563-PS, submitted by the Prosecution, there is a statement to the effect that

you, Dr. Funk, were described in several publications as Hitler's adviser on economic policy; and in another passage you are said to be Hitler's "Wirtschaftsbeauftragter" (Economic Plenipotentiary). Was this a Party office, or what precisely was meant by this term? What functions is it supposed to indicate?

FUNK: It was neither a Party office nor a Party title. The press frequently called me so on account of my activity on behalf of the Party in 1932, and it was obviously adopted by writers from the newspapers. But it was neither an office nor a title. It is really nonsense to consider my activities at that time so important; for if they had actually been of importance, I should certainly have retained these offices when the Party came to power.

The Reich Minister for Food and Agriculture was also a Reichsleiter; State Secretary Reinhardt, of the Finance Ministry, was the head of the Department for Financial Policy in the Reich Party Directorate (Reichsleitung), *et cetera*. But there never was a "Reichsleiter für die Wirtschaft." When the Party came to power I left the Reichstag and all Party organizations.

DR. SAUTER: Dr. Funk, a Reich Economic Council of the Party—I repeat the term: Reich Economic Council of the Party—has been mentioned once or twice in the course of this Trial. What do you know about your part in this Party organization and about the duties and domain of this Party organization?

FUNK: I had to think for a long time before I could remember this group at all, especially as neither Hess, Rosenberg, nor Frank remembered anything of the kind. But I remember dimly that Gottfried Feder had a circle of people whom he used to call in for consultation and to which he gave the rather pompous name of "Reich Economic Council of the Party." After the seizure of power this group ceased to exist. I never attended any of its sessions, and I was very much surprised to learn from the Indictment that I was supposed to have been the deputy chairman of this group. This group was of no importance whatsoever.

DR. SAUTER: You mentioned Gottfried Feder.

FUNK: He was responsible for the economic program and tenets of the Party from its establishment until it came to power.

DR. SAUTER: So he was the economic theorist of the Party from its foundation until it came to power?

FUNK: Yes. Dr. Wagner and Keppler overshadowed him later on. Keppler was always given the title of Economic Adviser to the Führer in public.

DR. SAUTER: Dr. Funk, if I understood you correctly, the persons whom you mentioned just now are those whom you consider as the economic advisers of Hitler?

FUNK: No, that is wrong.

DR. SAUTER: Well?

FUNK: Hitler did not allow anyone to advise him, especially on economic matters. These were merely the men who dealt with problems of economic policy in the Party leadership, both before and after my time.

DR. SAUTER: Also from the publicity angle, like Gottfried Feder?

FUNK: He did a good deal of writing; he treated the problem of the lowering of the rate of interest, for example, in great detail.

DR. SAUTER: Dr. Funk, those were your real or supposed Party offices. Now I turn to your State offices. After the seizure of power—that is, at the end of January 1933—you became press chief under the Reich Government. In March 1933, when the Propaganda Ministry was created, that being a State Ministry, you became State Secretary in this Propaganda Ministry under Minister Goebbels. How did that come about?

FUNK: May I give a short summary of these matters?

DR. SAUTER: One moment . . .

FUNK: It would go much faster than asking each question separately.

DR. SAUTER: Then I would ask you to consider at the same time the question of why you entered the Propaganda Ministry and were made press chief of the Reich Government, although you were usually always occupied with economic questions.

FUNK: The Reich Marshal has already stated in his testimony; firstly, that he never knew that I had been active in the Party at all before 1933, and secondly, that, as he himself rightly believed, my appointment as press chief of the Reich Government came as a complete surprise. On 29 January 1933 the Führer told me that he had no one among the old Party members who was intimately acquainted with the press and that he, therefore, wanted to ask me to take over the position of press chief, especially as this appointment involved regular reports to the Reich President. The Reich President knew me and, as I may mention again later on, very much liked me. I was often a guest at his home and was on friendly terms with his family.

DR. SAUTER: That is, Hindenburg?

FUNK: Yes, Hindenburg.

These were the reasons which prompted Hitler to make me press chief of the Reich Government. The press chief of the Reich

Government was also a ministerial director in the Reich Chancellery, and I did not like the idea of suddenly becoming a civil servant, for I never had any ambitions in that direction. But I accepted the appointment, influenced by the general enthusiasm of that period and in obedience to the Führer's summons.

I gave regular press reports to him, in the presence of Lammers. These conferences went on for a year and a half only, until the death of the Reich President, after which they stopped. The Führer issued instructions to the press through the Reich press chief of the Party, Dr. Dietrich, who was later also made a State Secretary in the Propaganda Ministry.

When the Propaganda Ministry was founded the Führer asked me to organize this ministry, so that Goebbels would not have to deal with problems of administration, organization, and finance. Then the Press Department of the Reich Government, of which I had so far been in charge, was incorporated in the Propaganda Ministry and placed under the direct control of Goebbels. It also had its own special chief.

From that time on—that is, after only 6 weeks activity as press chief of the Reich Government—my activities regarding the information and instruction of the press were at an end. From then on this was done by Goebbels himself, who generally drew a sharp line between the political and administrative tasks of the Ministry. He brought with him his old collaborators from the propaganda leadership of the Party to look after propaganda.

My services were not required for political propaganda. Goebbels took care of it through the Party organ, of which I was not a member. I had, for instance, as Chairman of the Supervisory Council, to be responsible for the finances of the German Broadcasting Corporation—a matter of a hundred million—but I never broadcasted propaganda speeches. Nor did I speak at any of the big State or Party rallies. Naturally, I fully appreciated the importance of propaganda for state leadership and admired the truly gifted manner in which Goebbels conducted his propaganda; but I myself played no part in active propaganda.

DR. SAUTER: Then, if I understood you correctly, your functions in the Propaganda Ministry, which was, of course, a state ministry, were of a purely administrative and organizational nature; and you left the actual propaganda to the Minister, Dr. Goebbels, and the people he brought into the Ministry from the Party propaganda instrument. Is that correct?

FUNK: Yes. Goebbels naturally claimed the exclusive right to dispose of all propaganda material. I did not appear beside him in the field of propaganda at all; and other considerable restrictions were imposed on my position as State Secretary by

the fact that many assignments, looked after in other ministries by the State Secretary, were in this case taken care of by Goebbels' expert, Hahnke, who was later made State Secretary and Gauleiter.

DR. SAUTER: Hahnke?

FUNK: Yes. I do not believe that during the entire period of my activity in the Propaganda Ministry I signed even three times as Goebbels' deputy. One of these signatures has been nailed down by the Prosecution. It is a signature appended to an order for the execution of a directive and fixing the date on which it is to come into force.

DR. SAUTER: What kind of directive was that?

FUNK: The decree for the application of the law of the Reich Chamber of Culture. The Reich Cabinet decreed legislation in connection with the Reich Chamber of Culture. I was not a member of the Reich Cabinet; but as State Secretary to the Propaganda Ministry I was, of course, formally responsible, and naturally I promoted propaganda, as did everyone else who occupied a leading position in the official or the intellectual life of Germany. The entire cultural life of the nation was permeated with this propaganda in a measure appropriate to the overwhelming, fundamental significance which was rightly attached to propaganda in the National Socialist State.

DR. SAUTER: Dr. Funk, the Prosecution has held you responsible for laws decreed during your term of office as press chief of the Reichsregierung. I refer, for instance, to the laws submitted under Documents Number 2962-PS and 2963-PS. These are the laws well known to you and which concern the abolition of civil rights in Germany and the abolition of the parliamentary form of government. I ask you to explain, what did you have to do with these laws? Did you as press chief under the Reich Government have any influence on the contents and promulgation of these laws?

FUNK: No. This question has already been answered in the negative by both the Reich Marshal and Dr. Lammers. All I had to do was to pass on the contents of these laws to the press, in accordance with instructions given to me by the Führer.

DR. SAUTER: So you were surely present at the sessions of the Reich Cabinet...

FUNK: Yes.

DR. SAUTER: And you took note of the deliberations and resolutions of the Reich Cabinet...

FUNK: Yes.

DR. SAUTER: That was the reason of your presence there; but your sole duty—and please tell me if I am correct—was to inform the press, after the cabinet sessions, of the decisions made? Is that correct?

FUNK: Yes, that is correct.

DR. SAUTER: So you had no influence on the drafting or on the contents of the laws, nor on the voting? Is that right?

FUNK: Yes, that is right. I had neither a seat nor a vote in the Cabinet.

DR. SAUTER: Were you responsible for the press policy of the Reich Government—and I stress: the Reich Government and not the Party?

FUNK: I have already said that I received my instructions for the press from the Führer; that went on for 6 weeks. Then Dr. Goebbels took charge of press policy.

DR. SAUTER: You have already said that the press reports to Reich President Von Hindenburg ended with his death in August 1934?

FUNK: Yes.

DR. SAUTER: And also, from the same date, your press reports to Hitler, who was then Reich Chancellor, is it not so?

FUNK: Yes, that is correct. Reich President Hindenburg had died in the meantime.

DR. SAUTER: And afterwards the Reich press chief, that is the Party official, Dr. Dietrich, tended more and more to occupy your place?

FUNK: Yes, Dr. Dietrich was one of the Führer's closest collaborators; and through him the Führer gave his instructions to the press.

DR. SAUTER: Dr. Funk, the book by Dr. Oestreich, 3505-PS, Exhibit USA-653, which we have already dealt with, contains the following quotation on your press policy; and I quote:

> "Many of the journalists who worked in Berlin and the provinces are grateful to Funk for the way in which he attended to their wishes and their complaints, especially during the transition period.
>
> "Funk is responsible for the much-quoted saying that the press must not be a 'barrel-organ,' with which he protested against the uniformity"—to use a German word, the one-sided modeling and leveling—"of the press and demanded individuality for it. But he also protected the press from efforts made by various offices to 'grind their own ax....'"

Is that correct?

FUNK: Yes; I probably did write that; and that was my opinion. So far as it lay within my power, I tried to protect the press from standardization and arbitrary treatment, especially at the hands of the government offices.

DR. SAUTER: You have already said, I believe, that you took no part in the political direction of the Propaganda Ministry—I stress, the political direction of the Propaganda Ministry—or in the actual work of propaganda. Is that correct?

FUNK: Yes, that is correct.

DR. SAUTER: Mr. President, I turn now to a new complex. Do you wish to have the recess now, Your Honor?

THE PRESIDENT: I think we will go straight on. We are going to adjourn at 12 o'clock.

DR. SAUTER: Witness, I come now to your attitude on the question of anti-Semitism. I do so because you are held more or less responsible, along with others, for the excesses committed against the Jews. Will you tell us on what principles your attitude was based?

FUNK: I was never anti-Semitic on the basis of racial principles. At first I thought that the anti-Semitic demands of the Party program were a matter of propaganda. At that time the Jews in many respects held a dominant position in widely different and important fields of German life; and I myself knew many very wise Jews who did not think that it was in the interest of the Jews that they should dominate cultural life, the legal profession, science, and commerce to the extent that they did at the time . . .

The people showed a tendency toward anti-Semitism at that time.

The Jews had a particularly strong influence on cultural life and their influence seemed to me particularly dangerous in this sphere because tendencies which I felt to be definitely un-German and inartistic appeared as a result of Jewish influence, especially in the domain of painting and music. The law concerning the Reich Chamber of Culture was created, radically excluding the Jews from German cultural life but with the possibility of making exceptions. I applied these exceptions whenever I was in a position to do so. The law, as I have stated, was decreed by the Reich Cabinet, which bears the responsibility for it. I was at that time not a member of the Cabinet. During the period of my activities in the Propaganda Ministry, I did what I could to help the Jews and other outsiders in cultural life.

Everyone who knows me from my activities during that period can and must testify to that.

DR. SAUTER: I have submitted two affidavits in my document book, Documents Number Funk-1 and 2. The first was made by the editor of the *Frankfurter Zeitung,* Albert Oeser; and the second by a lawyer, Dr. Roesen. I ask you to take judicial notice of both these documents. The first affidavit proves that the Defendant Funk took a great deal of trouble to protect the interests of the above-mentioned Albert Oeser, the editor of the *Frankfurter Zeitung*, and those of a number of the staff of this newspaper, although by doing so he was endangering his own position. In particular, he persisted in retaining members of the staff who were not of Aryan descent and who, therefore, in accordance with the intentions of the Party, should no longer have been employed.

FUNK: It was not in accordance with the intentions of the Party, but in accordance with the law passed for the Chamber of Culture that they were no longer to be employed.

DR. SAUTER: In accordance with the law passed for the Chamber of Culture, also.

Then Document Number 2 of the document book, an affidavit made by Dr. Roesen, who confirms that the Defendant Funk also intervened, for instance, on behalf of the family of the composer, Dr. Richard Strauss, and his non-Aryan grandchildren and by so doing incurred certain personal danger. These are just a few examples; but the defendant can probably tell you of other cases in which he looked after people's interests.

THE PRESIDENT: What exhibit number are you offering those as?

DR. SAUTER: Numbers Funk-1 and 2 in the document book. I have submitted the originals.

THE PRESIDENT: 1 and 2?

DR. SAUTER: 1 and 2.

[Turning to the defendant.] Dr. Funk, I have just said that perhaps you could—quite briefly—give us some more examples of cases where you used your official position to protect intellectuals and artists, whose views had got them into difficulties.

FUNK: Richard Strauss is a special case. That most remarkable living composer found himself in great difficulties on account of a libretto written by the Jew, Stefan Zweig.

I succeeded in having Richard Strauss again received by the Führer, and the whole affair was dismissed.

Dr. Wilhelm Furtwängler found himself in similar difficulties because he wrote an article praising the composer Hindemith;

and composers with Jewish wives, such as Léhar, Künnecke, and others who were always in difficulties because of their efforts to evade the ban placed on the performance of their works. I always succeeded in getting permission for these composers to have their works performed.

THE PRESIDENT: The defendant can say that he helped hundreds of Jews, but that does not really destroy the fact that he may have acted hostilely by signing decrees against the Jewish race—his helping a few Jewish friends. Anyhow, I do not think that it need be gone into any detail.

DR. SAUTER: We are of the opinion, Mr. President, that in order to judge the character and personality of the defendant, it may be important to know whether he signed decrees which were in any way anti-Semitic because as an official he considered himself bound by his oath to carry out the law of the land, or whether he signed them because he himself was an anti-Semite who wished to persecute Jewish citizens and to deprive them of their rights, and for this reason only...

THE PRESIDENT: Dr. Sauter, the Tribunal thinks that you have made the point quite clearly that he helped Jewish friends, but it isn't a question which need be gone into in detail.

DR. SAUTER: I come now, in any case, Mr. President, to another point. I want to ask the defendant how his activities in the Propaganda Ministry developed in later years.

FUNK: In exactly the same direction that I have described here. By degrees I came to be in charge of a large cultural economic concern—film companies, broadcasting corporations, theaters. I was director and chairman of the supervisory board of the Philharmonic Orchestra and on the Council of German Economy, which dealt collectively with the economic activities in the entire economic field at home and abroad with the active participation of the economy itself. Those were the main parts of my work.

DR. SAUTER: Witness, the Prosecution has submitted under Document Number 3501-PS an affidavit by the former Reich chief of the press—I believe—Max Amann, in regard to your activities in the Propaganda Ministry. I want to refer to this now. In that affidavit, we find the statement that Dr. Funk—and I quote literally:

> "...was to all intents and purposes Minister in the Propaganda Ministry..."—And it says further on—and I quote again—"Funk exercised complete control over all means of expression in Germany: press, theater, radio, and music."

Now, I ask you to comment on that; but you can do so quite briefly because I have already submitted an affidavit by Max Amann to the contrary to which I will refer later.

FUNK: Amann knew the Ministry only from the outside; and, therefore, he had no exact knowledge of its internal affairs. My work was done in the manner I have described. It is completely absurd to assert that under a Minister such as Dr. Goebbels the Ministry could have been led by someone else who was not the Minister.

Dr. Goebbels assumed such exclusive and all-embracing functions in the field of propaganda that he dwarfed everyone else.

DR. SAUTER: Mr. President, I have submitted an affidavit by that same former Reichsleiter Amann, dealing with the same subject, in the appendix to the Funk Document Book, under Document Number Funk-14—that will be Exhibit Number 3—and I ask you to take judicial notice of this affidavit. I do not think I have to read it. I administered that affidavit in the presence of and with the co-operation of a member of the Prosecution. The essential part of this affidavit of 17 April 1946 is that Reichsleiter Max Amann also admits that Funk had nothing to do with propaganda as such. That is to say, he did no broadcasting and indulged in no propaganda speeches but was mainly concerned with the organization and administration of the Ministry. Now, Mr. President, I come to the defendant's position as Reich Minister of Economics.

[Turning to the defendant.] Dr. Funk, you were State Secretary in the Propaganda Ministry until 1937. At the end of November 1937 you became Reich Minister of Economics, after your predecessor, Dr. Schacht, had left that post. Can you tell us with the necessary brevity—of course—how that change took place and why you were called to that post?

FUNK: That took me completely by surprise, too. During a performance at the opera, the Führer, who was present, took me aside in the vestibule during an interval and told me that the differences between Schacht and Göring could no longer be bridged and that he was therefore compelled to dismiss Schacht from his office as Minister of Economics and was asking me to take over the post of Minister of Economics, as he was very well acquainted with my knowledge and experience in the field of economics. He also asked me to contact Reich Marshal Göring who would explain everything else.

That was the only conversation which I had with the Führer on the subject.

DR. SAUTER: And then you spoke to Göring himself? Will you tell us about that?

FUNK: Then I went to the Reich Marshal who told me that he had really only intended to put a state secretary in charge of the Reich Ministry of Economics but that later he decided that the extensive machinery of the Four Year Plan should be merged with the machinery of the Ministry of Economics. However, the minister would have to work in accordance with his directives and in particular the plenipotentiaries for the individual decisive branches of economy would be maintained and would receive their directives directly from the Delegate for the Four Year Plan. In order to proceed with the necessary reorganization, the Reich Marshal himself took over the direction of the Reich Economic Ministry; and in February 1938 he transferred it to me.

DR. SAUTER: So Göring himself was to all intents and purposes the head of the Reich Ministry for Economics for a period of about 3 months.

FUNK: The reorganization was effected under his control. The control of economic policy was in his hands then as well as later.

The main control offices under the Four Year Plan were maintained; for instance, the Foreign Currency Control Office, which gave directives to the Reichsbank; there was the Food Control Office, which gave directives to the Food and Agriculture Ministry; the Allocation of Labor Control Office, which gave directives to the Labor Ministry; and also the plenipotentiaries for the separate branches of economics: coal, iron, chemicals, *et cetera,* which were under the direct control of the Delegate for the Four Year Plan. Some offices were also transferred in this way to the Ministry of Economics from the Four Year Plan, which continued to function quite independently. They included the Reich Office for Economic Development and Research, which was under the direction of Professor Strauch, and the Reich Office for Soil Research, directed by State Secretary Kempner, mentioned here in connection with Slovakia and Austria.

I tried to restore the independence of these offices. I am still in ignorance of what these offices did. In any case, they thought themselves responsible to the Four Year Plan rather than to the Minister of Economy.

DR. SAUTER: Dr. Funk, the essential point of what you have just said seems to me to be that you received the title of minister but that in reality you were not a minister, but might have had the position of a state secretary and that your so-called Ministry of Economics was completely subordinated to the directives of the

Four Year Plan—your Codefendant Göring in other words—and was compelled to follow these directives.

Did I understand it correctly?

FUNK: The latter point is correct. The Reich Marshal has clearly expressed and confirmed that here. But the first statement is not correct because formally, at least, I held the position of minister, which involved a gigantic administrative domain to which the Reich Marshal, of course, could not pay attention. The very purpose of the reorganization was that the Reich Marshal reserved for himself the direction and control of economic policy in the most important and decisive matters and gave me corresponding directives, but the execution of these was naturally in the hands of the Ministry and its organizations. But it is true that the position of minister, in the usual meaning of the term, did not exist. There was, so to speak, a higher ministry. But that has happened to me all my life. I arrived at the threshold, so to speak; but I was never permitted to cross it.

DR. SAUTER: That is not the case as far as this Trial is concerned.

Dr. Funk, the Prosecution asserts that, although you were not really a minister with the usual responsibility and independence of a minister, you, as Dr. Funk, Reich Economic Minister, still exercised supervision over those parts of the German economy which were grouped under war and armaments industry, that is, in particular, raw materials and manufactured materials as well as mining, the iron industry, power stations, handicrafts, finance and credit, foreign trade and foreign currency. I refer you, Dr. Funk, to the statements on Page 22 of the German translation of the trial brief, which I discussed with you several days ago.

FUNK: That is formally correct. But I have already explained how matters really were. I had nothing to do with the armament industry. The armament industry was at first under the High Command of the Armed Forces, under the Chief of the Armament Office, General Thomas, who was a member of Schacht's conspiracy, of which we have heard here. The Armament Minister Todt, who was appointed in 1940, at once took over from me the entire power economy; and later on I turned over all the civilian production to Armament Minister Speer.

DR. SAUTER: What do you mean by civilian production?

FUNK: Coal, chemicals, consumer, and other goods. The main production branches in that field already mentioned here were, as I said before, under the Delegate for the Four Year Plan. Thus it came about that the Ministry of Economics gradually became a new

Ministry of Commerce, which dealt only with the distribution of consumer goods.

DR. SAUTER: Mr. President, perhaps we might let him go on for a few seconds longer; because I would then come in a second to the subject of the Reichsbank President.

THE PRESIDENT: Certainly.

DR. SAUTER: Will you please continue briefly? You stopped. I believe you wanted to say more about manpower, gold, and foreign currency—about the competent authorities there.

FUNK: The Foreign Currency Control Office under the Four Year Plan was the competent authority for that; and the Reichsbank had to act in accordance with its directives—in my time, at least.

DR. SAUTER: And the direction of foreign trade?

FUNK: That was in the hands of the Foreign Office. The Minister for Foreign Affairs obstinately laid claim to that.

DR. SAUTER: And what did the Ministry of Economics do?

FUNK: The Ministry of Economics and the Reichsbank attended to the technical execution in this sphere, that is, the technical execution of clearing agreements, balances, *et cetera.*

DR. SAUTER: Mr. President, I come now to a separate theme. I should like now to discuss his position as President of the Reichsbank. I believe it might be a good moment to adjourn.

THE PRESIDENT: The Court will adjourn.

[The Tribunal adjourned until 6 May 1946 at 1000 hours.]

ONE HUNDRED AND TWENTY-SECOND DAY

Monday, 6 May 1946

Morning Session

[The Defendant Funk resumed the stand.]

DR. SAUTER: Mr. President, I will continue my questioning of the Defendant Dr. Funk. On Saturday we were discussing the appointment of Dr. Funk as Reich Minister of Economics and now I turn to his appointment as President of the Reichsbank.

Witness, I believe it was in January 1939 when you also became President of the Reichsbank as successor to Dr. Schacht. How did that appointment come about?

FUNK: I had just returned from a journey about the middle of January 1939. I was called to the Führer and found him in a state of great agitation. He told me that the Reich Minister of Finance had informed him that Schacht had refused the necessary financial credits and that consequently the Reich was in financial straits. The Führer told me, in great excitement, that Schacht was sabotaging his policies, that he would not tolerate the Reichsbank's interference with his policies any longer and the gentlemen in the Reichsbank Directorate were utter fools if they believed that he would tolerate it. No government and no chief of state in the world could possibly make policy dependent on co-operation or non-co-operation of the issuing bank.

The Führer further declared that from now on he himself, on the suggestions and demands of the Reich Minister of Finance, would fix all credits to be given by the Reichsbank to the Reich. He had given Lammers instructions to formulate a decree, together with the Reich Minister of Finance, by which the status of the Reichsbank, as established by the provisions of the Treaty of Versailles, would be changed, and whereby the terms for the granting of credits to the Reich would be determined by himself alone in the future.

The Führer further said that he was asking me to take over the direction of the Reichsbank, whereupon I replied that I would be glad to comply with his wish, but that first of all I had to have confirmation from him that the conditions for stabilization of currency would be maintained.

The opinion, which was voiced here by a witness, that inflation would be brought about through a further grant of credits at that time is wrong and totally untenable. Although 12,000 millions of credit can have an inflationary effect, 20,000 millions of credit will not necessarily tend toward inflation if the state has the necessary authority to stabilize prices and wages and to carry out the regulation and administration of prices, and if the people maintain the proper discipline in this respect, and if, finally, the money which as a result of increased credits represents excess purchasing power is diverted through taxes or taken up through loans; then, as far as the currency is concerned, there is absolutely no danger.

It is a fact that the Reichsmark, up to the final collapse, was kept on a stable basis. As far as the essentials of life are concerned, the purchasing power of money in Germany was secure. Of course, its value was limited insofar as consumers' goods were produced only on a very limited scale, for almost all production was turned over to armaments.

DR. SAUTER: Dr. Funk, have you concluded?

FUNK: Just one moment, please. I believe this is a very important question.

In other countries as well, large credits were issued during the war which did not in any way cause an inflation. The national debt in the United States as well as in England was relatively, and in part even absolutely, higher than that in Germany. And in these countries, too, a correct financial policy overthrew the old thesis that a war would, of necessity, bring about the destruction of the monetary value.

The German people, up to the very end, until the terrible collapse, maintained admirable discipline. Money as a function of the state will have its value and currency will function so long as the state has authority to maintain it on a stable basis, to keep the economy under control, and as long as the people themselves maintain the necessary discipline.

Thus I took over this office not with the knowledge that Germany was now entering an inflation period but, on the contrary, I knew well that through maintenance of a suitable governmental policy the currency could be protected, and it was protected. However, the basic difference between Schacht's position and my position lay in the fact that during Schacht's time the Reichsbank could determine the granting of credits to the Reich, whereas this authority was taken from me, and the responsibility for domestic finances, therefore, was turned over to the Minster of Finance or of course to the Führer himself.

DR. SAUTER: Dr. Funk, I have another question. Perhaps, despite your poor state of health today, you might be able to speak a little more loudly so that the stenographers might understand you more easily. Please try, and we will make this as brief as possible.

Witness, then in addition to these offices of yours which we have discussed up to now, you finally had a further office as successor of Dr. Schacht, namely, that of Plenipotentiary General for Economy. Can you give us some details of your view in this connection in order to clarify your situation, your activity, and your achievements?

FUNK: This of all the positions I had was the least impressive. As the Reich Marshal correctly stated, and as Dr. Lammers confirmed, it existed merely on paper. That, too, was an essential difference between the position which Schacht had and the one which I had.

Schacht had been appointed Plenipotentiary General for War Economy. I, on the other hand, was the Plenipotentiary General for Economy. According to the Reich Defense Law of 1938, the Plenipotentiary General for Economy was to co-ordinate the civil economics departments in preparing for a war. But, in the meantime, these economic departments had been subordinated to the Delegate for the Four Year Plan, and I, as Plenipotentiary General for Economy, was also subordinate to the Delegate for the Four Year Plan.

Consequently, there was confusion and overlapping in matters of competence and authority as they had been laid down formally. The result was a directive of the Führer just a few months after the beginning of the war which *de jure* and formally transferred the authority of the Plenipotentiary General for Economy, as far as the civil economic departments were concerned, to the Delegate for the Four Year Plan.

DR. SAUTER: When was that?

FUNK: That was in December of 1939. There remained only a formal authority to issue directives, that is, I could sign directives on behalf of the five civil economic departments, which, according to the Reich Defense Law, were subordinate to the Plenipotentiary. I retained authority over the Ministry of Economics and the Reichsbank, which I had in any case.

DR. SAUTER: But you were subordinate even in these functions to the Delegate for the Four Year Plan; is that correct?

FUNK: Yes, like all civil economic departments. Only with the Ministry of Economics itself did I have a closer connection.

DR. SAUTER: Witness, in August 1939, that is, immediately before the beginning of the Polish campaign, you in your capacity

as Plenipotentiary General for Economy summoned the civil economic offices to a meeting for discussions, and Document 3324-PS refers to this meeting. It seems to me important that you define your attitude on this point also, and especially with reference to the fact that apparently your letter to Hitler, dated 25 August, was a result of this meeting. This matter is mentioned in your trial brief on Page 24. Will you comment on it?

FUNK: In Schacht's time there existed an office for the Plenipotentiary General for Economy, and a working committee was set up which consisted of the representatives of the various economic departments, as well as of the Ministry of the Interior, the Plenipotentiary for Administration, the OKW, and above all, of the Four Year Plan.

When Schacht resigned, the direction of this committee and of the office of the Plenipotentiary for Economy was transferred to Dr. Posse, his former State Secretary, whereas under Schacht State Counsellor Wohlthat had headed the office and the committee. These people, of course, had constant consultations, in which they discussed measures necessary in the economic sphere for waging war. And this was the organization of the Plenipotentiary for Economy which I dealt with in my speech in Vienna which had been mentioned here. It existed alongside the Four Year Plan, and in the main was charged with a smooth conversion of the civilian economy into a war economy in the case of war, and with the preparation of a war economy administration.

When, in August of 1939, there was a threat of war with Poland, I called together the chiefs of the civil economic departments, as well as the representatives of the Four Year Plan, and, in joint consultation, we worked out measures necessary for converting the civilian economy into a war economy in the case of a war with as little disturbance as possible.

These were the proposals which I mentioned in my letter to the Führer dated 25 August 1939, at a time when the German and Polish Armies already faced each other in a state of complete mobilization.

It was, of course, my duty to do everything to prevent dislocations of the civilian economy in the case of a war, and it was my duty as President of the Reichsbank to augment gold and foreign exchange assets of the Reichsbank as much as possible.

This was necessary first of all because of the general political tension which existed at the time. It would also have been necessary if war had not broken out at all, but even if only economic sanctions had been imposed, as was to be expected from the general foreign political tension which existed at the time. And it was

equally my duty, as Minister of Economics, to do everything to increase production.

But I did not concern myself with the financial demands of the Wehrmacht, and I had nothing to do with armament problems, since, as I have already said, the direction of peacetime as well as war economy had been turned over to the Delegate for the Four Year Plan.

The explanation for the fact that at that time I kept aloof from the work of that committee is the following:

I personally did not believe that there would be war, and everyone who discussed this subject with me at that time will confirm this. In the months before the beginning of the war I concentrated my entire activity on international negotiations for bringing about a better international economic order, and for improving commercial relations between Germany and her foreign partners.

At that time it was arranged that the British Ministers Hudson and Stanley were to visit me in Berlin. I myself was to go for negotiations to Paris where, in the year 1937, I had come to know some members of the Cabinet when I organized a great German cultural fête there.

The subject of short-term foreign debts had again to be discussed and settled—the so-called moratorium. I had worked out new proposals for this, which were hailed with enthusiasm, especially in England. In June of 1939, an international financial discussion took place in my offices in Berlin, and leading representatives of the banking world from the United States, from England, from Holland, France, Belgium, Switzerland, and Sweden, took part in it.

These discussions led to results which satisfied all parties. At the same time I carried out the exchange or transfer of Reichsbank assets in foreign countries. This exchange of gold shares also was considered very fair and satisfactory in foreign banking circles and the foreign press.

In June of that year I went to Holland to negotiate trade agreements. I also participated in the customary monthly discussions of the International Clearing Bank at Basel as late as the beginning of July 1939, and despite the strong political tension which existed at the time I was convinced that a war would be avoided and I voiced this conviction in all my discussions, at home and abroad. And this is why during those months I was barely interested in the discussions and consultations on the financing of the war and the shape of war economy.

I had, of course, given instructions to the Reichsbank to use its available economic assets abroad as far as possible to obtain gold

and generally to increase our foreign assets. But in the few months of my activity in this sphere before the war, the success of this endeavor of mine was slight. Our gold assets and foreign assets, as they were turned over to me by Schacht, remained on the whole unchanged until the war.

In my questionnaire to the Reichsbank Vice President, Puhl, I requested enlightenment on these transactions, since the Directorate of the Reichsbank and its managing director who, at that time, was Puhl, are bound to have information on this matter. The answer to this questionnaire, I am sorry to say, has not as yet arrived.

DR. SAUTER: Witness, you gave these details obviously to show that despite the political tension at the time you did not even think seriously of war.

FUNK: Not until August 1939.

DR. SAUTER: Now, in the course of these proceedings, we have heard about a series of discussions which Hitler had with generals and other personalities, and which concerned military and political matters. All these were discussions which we must say today stood in closest connection with preparations for war.

At which of these discussions were you present, and what did you gather from them?

FUNK: I was never called into political and military discussions, and I did not participate in any of these discussions which were mentioned here in connection with the charge of planning an aggressive war, so far as discussions with the Führer are concerned. I was also not informed about the contents of these discussions. And as far as I can remember, I was hardly ever present at the discussions with the Reich Marshal, when they dealt with this topic.

I have been confronted here with a meeting which took place in October of 1938.

DR. SAUTER: 14 October 1938? I can tell you the document number. It is 1301-PS.

FUNK: Yes.

DR. SAUTER: Were you present at that meeting?

FUNK: No.

DR. SAUTER: That was the meeting . . .

FUNK: Yes, that was the meeting in which, according to the indictment against me, Göring pointed out that he had been instructed by the Führer to increase armament to an abnormal extent. The Luftwaffe was to be increased fivefold, as speedily as possible.

The Prosecutor, according to the official record (Volume V, Pages 163, 164), asserts that, in this discussion, Göring addressed me in the words of a man who was already at war. I was not even in Germany those days but in Bulgaria, and consequently I could not participate in this meeting.

DR. SAUTER: Mr. President, as proof of the fact that the Defendant Funk was not in Germany at the time of this discussion with Göring on 14 October 1938 I have submitted several documents in the Document Book Funk; they are extracts from the *Völkischer Beobachter,* Numbers 5, 6, 7, and 8 of the Funk Document Book. These documents are submitted chiefly because they show that in fact from 13 October 1938 until 15 October 1938 Funk was at Sofia in Bulgaria, and therefore could not have been present at the Göring meeting on 14 October 1938.

What Funk said in Bulgaria about economic relations I need not read in detail. But I would like to refer especially to his speech of 15 October 1938, Funk Document Book Number 7, in which the Defendant Funk, particularly in the first paragraph, declared publicly that the thought of an economic union between the German economy and the Southeastern European economy was in his mind, and in which Funk quite definitely rejected a one-sided dependence of the economy of the southeastern states on the economic system of Germany.

Therefore I beg the Tribunal to take judicial notice of these documents as evidence and in order to save time I will not go into them further.

Witness, under Document Number PS-3562 the Prosecution has submitted a document dealing with a conference on 1 June 1939. You yourself did not attend this meeting, but according to the list of those present several representatives of your Ministry were there, as well as the representative of the Reichsbank. At this meeting the probable financial needs of the Reich in case of a war, the productive capacity of the Germany economy, and that of the Protectorate in case of a war were discussed. There is a marginal note in this record which says that the record was to be submitted to you. Can you state very briefly whether this was actually done?

FUNK: No, it was not done. I have the document here. If this record had been submitted to me I would have affixed my initials "W. F." to it. Besides, this document deals with the continuous discussions, which I have already mentioned, about the financing of the war, and the measures to be taken in the field of civilian economy in case of a war. The decisive measures for the financing were naturally prepared by the Reich Minister of Finance, and these measures were discussed at length in this

conference at which the question of meeting the expenses through taxes was one of the chief topics. In any event, a variety of such discussions was carried on continuously at that time among the representatives of the various departments, and they took place in the office of the leading staff of the Plenipotentiary for Economy. By chance I have now found this name which earlier I could not remember: this was the institution—the committee—which was founded in the days of Schacht and was later continued.

DR. SAUTER: Dr. Funk, on 30 March 1939 you made a statement of your program in a speech before the Central Committee of the Reichsbank.

I have included these excerpts from the speech which have a bearing on this Trial in the Funk Document Book under Number 9. I am coming back to this speech because it was delivered before the Central Committee shortly after the defendant assumed his office as President of the Reichsbank, and represents his program as President of the Reichsbank in connection with various matters which have played a part here.

Dr. Funk, perhaps with just a few brief words you might give us the essential relevant points of your speech, insofar as the Prosecution is interested in them.

FUNK: I do not believe I need do that. I briefly mentioned a while ago that in these months I carried on international discussions about the necessity for a new order in international economic relations, and that I also pointed out Germany's readiness to play a positive part. Therefore, I do not think I need read anything more from this speech; it is only meant to show that at that time I did not work on preparations for war but endeavored to bring about international economic understanding, and that these, my efforts were recognized publicly in foreign countries, especially in England.

DR. SAUTER: This intention to establish favorable and confident relations with foreign countries, that is, with their financial and economic circles, was, I am sure, a deciding factor in a later measure to which you already referred a little while ago, namely that compensation to foreign shareholders in the Reichsbank, who, I believe, existed chiefly in England, Holland, and Switzerland, was assessed and paid in a particularly loyal manner.

FUNK: Yes, I have stated that already.

DR. SAUTER: Dr. Funk, you mentioned earlier a letter which you wrote to Hitler. This letter would be interesting to me insofar as I would like to know just why you wrote it, and why in it you spoke of "your proposals," even though in the main they were

concerned with things which did not actually originate with you. Perhaps you will say a few words about this letter.

FUNK: The tone and contents of this letter can be explained from the general mood which existed everywhere in Germany at that time. Beyond that it is a purely personal letter to the Führer: In it I thanked him for his congratulations on my birthday. For this reason the letter is a little emphatic in its style. When I spoke of "my proposals," this may be traced back to the fact that I had personally some time before explained to the Führer what measures would be necessary if a war broke out. And in the main, those were the measures which were adopted later as a result of conferences with the other economic offices, and to which I referred in this letter. Thus it was not quite correct for me to say "my proposals." I should really have said, "The proposals worked out together with the other economic offices."

DR. SAUTER: Dr. Funk, have you concluded?

FUNK: No. I would like to explain this whole letter with just a few words, since it is apparently one of the pillars of the Prosecution's case against me.

As I have said, it was the time when the two mobilized armies faced each other. It was the time when the entire German people were in a state of great excitement because of the constant provocations and the ill-treatment of the German population in Poland. I personally did not believe that we would actually have war, for I was of the opinion that diplomatic negotiations could again be successful in preventing the threat of war and indeed in avoiding war itself. After the Führer's almost miraculous successes in foreign policy, the heart of every true German had to beat faster in the expectation that in the East also Germany's wishes would be fulfilled; that is, that my separated home province of East Prussia would be reunited with the Reich, that the old German city of Danzig would again belong to the Reich, and that the problem of the Corridor would be solved.

The overwhelming majority of the German people, including myself, did not believe that this question would end in war. We were rather convinced that England would be successful in exerting pressure on Poland so that Poland would acquiesce in the German demands on Danzig and the Corridor and would not bring on a war. The testimony of the witness Gisevius must have made clear to everyone in the world that England did nothing at that time to exert a soothing and conciliatory influence on Poland. For if the British Government knew that a conspiracy existed in Germany in which the Chief of the General Staff, the Chief of the OKW, the Chief of German Armament and other leading

military personalities and generals were involved, and that an overthrow had been prepared for the event of war, then the British Government would have been foolish indeed if they had done anything to assuage and conciliate Poland. The British Government must have been convinced that if Hitler should go to war, a *coup d'état,* a revolution, an overthrow would take place, and that, in the first place, there would be no war and, secondly, that the hateful Hitler regime would be removed. Nobody could hope for more.

DR. SAUTER: Dr. Funk, we do not want to talk politics, but rather return to this letter of 25 August 1939. May I repeat the number, 699-PS. Let us at present deal only with this letter. If I understood you correctly, I can summarize your testimony as follows: This rather enthusiastic letter to Hitler was written because you were hopeful that Hitler would succeed in reuniting your home province of East Prussia with the Reich, and would now finally settle the Corridor problem without a war. Did I understand you correctly?

FUNK: Yes, but at the same time I feel I must state that I on my part did everything to ensure that in the event of war peace-time economy would without disturbance be converted into a war economy. But this was the only time at which, as Plenipotentiary for Economy, I was active at all with regard to the other economic departments and the fact that I referred to my position in this letter may be explained quite naturally, because I was proud that I had for once done something in this official position—for every man likes to be successful.

DR. SAUTER: Dr. Funk, we are still concerned with the question of whether you knew of Hitler's intent to bring about a war, especially to wage aggressive war and to make conquests through aggressive wars. I would like to put to you a few questions which, for the sake of simplicity, you can answer with "yes" or "no"; I would like to know only whether your knowledge and your presentiment agree with the statements made by a few witnesses and some codefendants.

For example, Reich Minister Lammers testified that you found it especially difficult to see Hitler at all, that an audience was granted you only once in a long while, and that even on one occasion I believe you waited for days with Lammers at headquarters for the promised audience, and that you had to leave again without having gained admittance. Is that correct?

FUNK: Yes, I am sorry to say.

DR. SAUTER: Now a further question: We have been confronted with several documents which say explicitly—I believe they are

records of Lammers—that the Reich Minister of Economics, and at one time also the Reich Foreign Minister, had requested to be called in to these discussions, that Minister Lammers did his best to bring this about, but that Hitler did not allow it, that he expressly barred you and the Reich Foreign Minister from attending these discussions even though you pointed out that important matters of your department were being dealt with. Is that correct? Perhaps you can answer with just "yes" or "no."

FUNK: The meeting which you mention is concerned with the deployment of labor. I myself had no direct connection with that, and the Foreign Minister probably did not have any marked interest in it either. So I assume that for these reasons the Führer did not need me, for as I said yesterday his directives for the conduct of economy were given, up to the year 1942, to the Reich Marshal as the man responsible for that field, and after 1942 the directives were given to Speer, because from that date on armaments dominated the entire economic life, and all economic decisions, by express order of the Führer, had to give way to armament needs.

DR. SAUTER: Dr. Lammers, in his testimony on 8 April, stated—I quote:

"The Führer objected many times, namely against Funk. There were various reasons for objecting to Funk. Hitler was skeptically inclined toward Funk and did not want him."

Thus for the testimony of the witness Dr. Lammers. Can you explain why Hitler was disinclined toward you?

FUNK: No, only by the objective explanation that he did not need me.

DR. SAUTER: In other words, he considered any discussions with you superfluous.

FUNK: Yes.

DR. SAUTER: Witness, in connection with the topic of aggressive wars, I would be interested in the following: In the Indictment, on Page 30 of the German trial brief, it is set forth that you personally and through your official representatives, that is you personally as well as through the representatives who were appointed by you, participated in the preparation for the aggressive war against Russia, and as the sole proof for this Document Number 1039-PS, Exhibit USA-146, is submitted. From this document it appears that you, Defendant, at the end of April 1941, allegedly had a discussion with Rosenberg—who was responsible for the Eastern Territories—about the economic questions which would arise if the plans for attack in the East were to be carried through. I ask you, Dr. Funk, to note the date of this discussion: the end of

April 1941, just a short time before the beginning of the war against Russia. In order to refresh your memory I want to point out that at that time, that is, before the war against Russia, Rosenberg had already been nominated as Hitler's plenipotentiary for the uniform handling of problems in the Eastern Territories. I am asking you now to define your position and to say whether it can be derived from this discussion that you participated in an aggressive war against Russia or its planning and preparation, and if you did participate, how?

FUNK: I knew nothing about an aggressive war against Russia. I was very much surprised when I learned from Lammers that the Führer had made Rosenberg plenipotentiary for Eastern European problems. Lammers stated here that he had me advised of this nomination for personal reasons, because he knew that I was very much interested in economic relations with Russia. Indeed, our mutual efforts, Russia's as well as Germany's, had succeeded in considerably expanding our trade relations; for in earlier times, that is, before the first World War, German trade with Russia had been the decisive factor in the balance of German trade and had amounted to several thousand million gold marks.

The Russians—I must say this here—furnished us grain, manganese ore, and oil very promptly, while our deliveries of machines lagged behind for the natural reason that the machines had first to be produced since the Russian orders were mainly for specialized machines. To what extent army supplies were sent to Russia, I do not know, as I did not deal with these.

And so I was surprised by the appointment of Rosenberg. He called on me for a short discussion in which he told me that the task given to him by the Führer also included handling of economic problems. Thereupon I placed a ministerial director in my ministry, Dr. Schlotterer, at Rosenberg's disposal to work on these problems. And when the Ministry for Eastern Affairs was founded, as far as I know, in July, Dr. Schlotterer, with some of his colleagues, took over the direction of the economic department in Rosenberg's Ministry. And simultaneously, as far as I remember, Dr. Schlotterer became a member of Economic Operational Staff East. This was the institution of the Four Year Plan which has been mentioned repeatedly here during the proceedings and which dealt with all economic problems in the Occupied Eastern Territories.

Beyond that, I had nothing to do with these matters. Naturally I asked Lammers as well as Rosenberg just what this signified, and both of them told me that the Führer was of the opinion that a war with Russia would become unavoidable, that along the entire Eastern Front the Russians had concentrated large reinforcements, that the discussions with Molotov, in which I had no part at all, had been

unsatisfactory, that the Russians were making demands regarding the Baltic, the Balkan regions, and the Dardanelles, which could not be accepted by Germany, by the Führer. At any rate, this affair was as complete a surprise to me as to the German people, and I am convinced that this war was a great shock to the German people.

THE PRESIDENT: The witness spoke of July. Did he mean July 1940?

DR. SAUTER: As far as I know, July 1941.

THE PRESIDENT: You mean July 1941? That was after the war with Russia had begun. The witness can answer for himself, I suppose, can he not?

[Turning to the defendant.] Did you mean July 1940?

FUNK: The discussion with Rosenberg was at the end of April or the beginning of May 1941, and the Rosenberg Ministry was founded in July 1941.

DR. SAUTER: I now turn to a different point raised by the Prosecution. You are accused of having, as Reich Minister of Economics, committed punishable acts in connection with the criminal plan to persecute the Jews and to eliminate them from economic life. These are the happenings of November 1938. Will you therefore now describe your activity in this respect.

FUNK: May I ask the Tribunal to give me time for a rather detailed account on this topic. Then the points which we will treat later can be dealt with much more briefly. This is the charge of the Prosecution which really affects me most gravely.

When I took over the Ministry of Economics in February 1938, I very soon received demands from the Party, and especially from Goebbels and Ley, to eliminate the Jews from economic life, since they could not be tolerated. I was told that people were still buying in Jewish stores, and that the Party could not permit its members to buy in such stores; the Party also took offense at the fact that some high state officials, and in particular their wives, were still shopping in such stores. The sectional chairmen of the Labor Front refused to work with Jewish managers. There were constant clashes, I was told, and there would be no peace if the measures which had already been introduced here and there were not extended gradually to eliminate the Jews completely from economic life.

The Law for the Organization of National Labor, which was decreed under my predecessors and which was also carried through by them in agreement with the German Labor Front, had assigned political and Party functions also to domestic economy. The plant manager was also responsible to the Party and above all to the State.

Some Jewish managers readily succumbed to the pressure and sold their businesses and enterprises to people and at prices of which we did not approve at all. I had made private agreements with individual Jewish leading men in banking, heavy industry, and the big stores, and had thus brought about their withdrawal from positions in economic life. There was no peace, and we had to try within a certain time and in line with certain legal decrees to force back and gradually eliminate Jewish influence from economic life. In this connection, I personally always represented the view that, first of all, the process should be carried out slowly, with intervals of time; secondly, that the Jews should be given adequate compensation, and thirdly, that one might leave certain economic interests in their hands, especially their security holdings; and I particularly emphasized this in the meeting with Göring which has been mentioned here so frequently.

Now while these developments were taking shape, the terrible happenings of the night of 9-10 November 1938, originating in Munich, burst upon us and affected me personally very deeply. When I drove to my ministry on the morning of 10 November, I saw on the streets and in the windows of the stores the devastation which had taken place and I heard further details from my officials in the Ministry. I tried to reach Göring, Goebbels, and I think Himmler, but all were still traveling from Munich. Finally I succeeded in reaching Goebbels. I told him that this terror was an affront against me personally, that through it valuable goods which could not be replaced had been destroyed, and that our relations with foreign countries, upon which we were particularly dependent at this time, would now be disturbed noticeably.

Goebbels told me that I personally was responsible for this state of affairs, that I should have eliminated the Jews from economic life long ago, and that the Führer would issue an order to Reich Marshal Göring according to which the Jews would have to be completely eliminated from economic life; I would receive further details from the Reich Marshal. This telephone conversation with Goebbels was confirmed by him later, and witnesses will verify this.

The next day, 11 November, I was informed that there was to be a meeting on the 12th with Göring in his capacity as Delegate for the Four Year Plan, for the purpose of settling the Jewish problem. The Delegate for the Four Year Plan had given instructions to the Ministry to prepare a draft for a decree which was to be the basis of laws for the elimination of the Jews from economic life.

On the 12th this meeting, which has been discussed here frequently, took place. There was a discussion with the Reich Marshal in the morning at which the Gauleiter were present. The Reich

Marshal was highly excited; he said that he would not tolerate this terror and that he would hold the various Gauleiter responsible for what had happened in their Gaue.

After this meeting I was therefore comparatively relieved, but at the meeting, of which the record has been read here several times, Goebbels very soon produced his very radical demands and thereby dominated the whole of the proceedings.

The Reich Marshal became increasingly angry and in this mood he gave way to the expressions noted in the record. Incidentally, the record is full of gaps and very incomplete. After this meeting it was clear to me that now indeed the Jews would have to be eliminated from economic life, and that in order to protect the Jews from complete loss of their rights, from further terror, attacks, and exploitation, legal measures would have to be decreed. I made provisions, and so did the Minister of Finance, the Minister of the Interior, the Minister of Justice, and so on, for the execution of the original decree of the Delegate for the Four Year Plan in which the transfer of Jewish businesses and Jewish shares to trustees was stipulated. The Jews were compensated by 3 percent bonds, and I always saw to it that, as far as the Ministry of Economics was involved in this, this decision was carried out faithfully and according to the law and that the Jews did not suffer further injustice. There was at that time certainly no talk of an extermination of the Jews. However, a plan for the organized emigration of the Jews was briefly discussed at that meeting. I personally did not participate in any way in the terroristic, violent measures against Jews. I regretted them profoundly and sharply condemned them. But I had to authorize the measures for the execution of those laws in order to protect the Jews against a complete loss of rights, and to carry through in an orderly manner the legal stipulations which were made at that time.

DR. SAUTER: Dr. Funk . . .

THE PRESIDENT: We had better adjourn now.

[A recess was taken.]

DR. SAUTER: Witness, before the intermission we last spoke of your activity concerning the decrees for the exclusion of Jews from economic life and you told us about the minutes of the session with Göring on 12 November 1938. That is Document Number 1816-PS.

You have already mentioned that the minutes of that conference were poorly edited and are full of omissions, but we can see from these minutes that you openly and definitely exerted a restraining influence and that you tried to save one thing or another for the

Jews. I see, for instance, from the minutes that during the conference you repeatedly maintained that the Jewish stores should be reopened again speedily. Is that correct?

FUNK: Yes.

DR. SAUTER: You also pleaded, according to the minutes, that the Jews should be able to keep their shares and interests. That is shown in a question which you put. Is that correct?

FUNK: I have already said that I had thought, up to the time of that conference, that the Jews could keep their securities; and in the course of the conference I said that it was quite new to me that the Jews should also surrender the securities they possessed. Ultimately they got 3 percent government bonds in settlement, but they had to hand over all their shares and other interests.

I was also against a ruling of that kind because the Government would then take over a huge number of securities and the conversion of such securities was of course difficult.

DR. SAUTER: From the minutes it also appears that Heydrich was in favor of placing the Jews in ghettos, and you recall that the Prosecution has already mentioned that here.

What was your attitude, Dr. Funk, to Heydrich's proposal at that time?

FUNK: I was against ghettos for the simple reason that I considered a ghetto a terrible thing. I did not know any ghettos, but I said that 3 million Jews can surely live among 70 million Germans without ghettos. Of course, I said that the Jews would have to move together more closely, and one would have to assist the other, for it was clear to me, and I also said so during the conference, that the individual Jew could not exist under the conditions which were now being created for him.

DR. SAUTER: In that connection, Mr. President, may I be permitted to point out two affidavits which I included in the Funk Document Book under Number 3 and Number 15, and may I ask you to take official notice of their complete contents as evidence?

Affidavit Number 3 in the document book, on Page 12 of the text, is one by the defendant's wife, signed by her about the beginning of the Trial on 5 November 1945. From that affidavit, of which I shall summarize the essential passages, we can see that at the time of the excesses against the Jews in November 1938 the defendant, together with his wife and his niece, was in Berlin, and therefore not in Munich where the so-called "Old Fighters" were assembled and where Minister Dr. Goebbels quite suddenly and to the surprise of everyone gave the order for these Jewish pogroms. Frau Funk confirms in her affidavit that her husband, as soon as

he heard of these excesses, called Dr. Goebbels over the telephone in great excitement and asked him:

> "Have you gone crazy, Goebbels, to commit such outrages? It makes one ashamed to be a German. Our whole prestige abroad is being lost. I am trying day and night to preserve the national patrimony and you throw it recklessly out of the window. If this beastly mess does not stop immediately, I will throw everything overboard."

That literally was the telephone conversation which at that time the defendant had from Berlin with Dr. Goebbels. And the remaining contents of that affidavit are concerned with intercessions which the defendant made for individual Jewish acquaintances. And, Gentlemen, there is a similar vein in the affidavit by Heinz Kallus, who was ministerial counsellor in the Ministry of Economics under the Defendant Funk.

I have submitted this affidavit as Number 15 of the Funk Document Book. It is dated 9 December 1945, and this witness also confirms that Funk was, of course, extremely surprised by these excesses, and that he thereupon immediately got in touch with the competent authorities in order to prevent further outrages.

Thus these affidavits largely confirm the account which the Defendant Funk himself has given. In connection with this affair concerning the Jews, I should like to return to Document Number 3498-PS, which can be found on Page 19 of the trial brief against Funk. That is a circular letter by Funk of 6 February 1939, published in the official gazette of the Reich Ministry of Economics, and from it I quote:

> "To what extent and rate the authority of the Four Year Plan is to be used depends on instructions given by me in accordance with the directives of the Delegate for the Four Year Plan."

I quote this because, here again, in an official publication of that time, the Defendant Funk expresses clearly that, in this field too, he had merely to obey and to execute the directives of the Four Year Plan. Is that correct, Dr. Funk?

FUNK: Yes.

DR. SAUTER: Dr. Funk, you said earlier that in keeping with your entire past and your basic principles, and in keeping with your entire philosophy, you considered as particularly severe the charge concerning the elimination of Jews from economic life. And in this connection I want to put to you that during an interrogation in Nuremberg on 22 October 1945, you finally broke into tears and told the interrogating officer, "At that time I should have resigned. I am guilty." And this was quoted literally on one occasion in the

course of the proceedings. Perhaps you can tell us how that remark and that breakdown on your part occurred which I find mentioned in the record.

FUNK: I had at that time just been brought from hospital into prison.

DR. SAUTER: Dr. Funk, one question . . .

FUNK: I did not know before that I had been accused of being a murderer and a thief and I do not know what else. I was sick for 9 or 10 weeks, and from the hospital bed I was brought here during the night. During those days my interrogations here started immediately. I must admit that the American officer who interrogated me, Colonel Murrey Gurfein, conducted the interrogation with extreme consideration and forbearance and again and again called a halt when I was unable to go on. And when I was reproached with these measures of terror and violence against the Jews I suffered a spiritual breakdown, because at that moment it came to my mind with all clearness that the catastrophe took its course from here on down to the horrible and dreadful things of which we have heard here and of which I knew, in part at least, from the time of my captivity. I felt a deep sense of shame and of personal guilt at that moment, and I feel it also today. But that I issued directives for the execution of the basic orders and laws which were made, that is no crime against humanity. In this matter I placed the will of the State before my conscience and my inner sense of duty because, after all, I was the servant of the State. I also considered myself obliged to act according to the will of the Führer, the supreme Head of the State, especially since these measures were necessary for the protection of the Jews, in order to save them from absolute lack of legal protection, from further arbitrary acts and violence. Besides, they were compensated and, as can be seen from the circular letter which you have just quoted, I gave strict instructions to my officials to carry out these legal directives in a correct and just way.

It is terribly tragic indeed that I in particular am charged with these things. I have said already that I took no part in these excesses against the Jews. From the first moment I disapproved of them and condemned them very strongly, and they affected me personally very profoundly. I did everything, as much as was within my power, to continue helping the Jews. I never thought of an extermination of the Jews, and I did not participate in these things in any way.

DR. SAUTER: Dr. Funk, as you are just speaking of the fact that you did not think of an extermination, an annihilation of the Jews, I want to refer to a document which has been quoted before:

Number 3545-PS; it was submitted by the Prosecution. As you may recall, this is the photostat of the *Frankfurter Zeitung* of 17 November 1938, an issue which appeared only a few days after the incidents with which we are now concerned. In that issue of the *Frankfurter Zeitung* a speech of yours was published in which you deal with the legal measures for the exclusion of Jews from German economic life, and you will recall that the Prosecutor, in his speech of 11 January 1946, charged you, and I quote: "... that the program of economic persecution of the Jews was only part of a larger program for their extermination."

And that is in conformity with a phrase in your trial brief which says that it was merely a part of, literally, "a larger program for the extermination of the Jews." Now, in all the statements which you made during that time, I nowhere find an indication that you favored an extermination, an annihilation of the Jews, or that you had demanded it. What can you say about that view of the Prosecution?

FUNK: Never in all my life, orally or in writing, have I demanded an extermination or annihilation of the Jews or made any statement to that effect. Apparently this is an utterance of the Prosecutor, which, in my opinion, is based only on imagination or the state of mind in which he has viewed the things from the beginning. I myself have never advocated the extermination of the Jews and I did not know anything of the terrible happenings which have been described here. I did not know anything. I had nothing to do with them; and afterwards, as far as I recall, I never took part in any measures against the Jews, since these matters were no longer dealt with in my departments. With the exception of these legal measures, these executive orders, I do not believe that within my departments I ever again authorized anything further connected with Jewish affairs.

DR. SAUTER: Is it correct, Dr. Funk, that in connection with the carrying out of these directives which you had to issue, you yourself intervened on behalf of a large number of individuals who had to suffer under these directives and who approached you personally for aid, and that you did this in order to mitigate the effect of these decrees?

FUNK: I saw to it that these directives were followed in a fair way and according to the laws. However, the carrying out of these decrees was the responsibility not of the Ministry but of the district president and of the offices dependent on the Gauleiter in the Reich. Many complaints reached me about the manner in which Aryanization was carried out, and my officials will confirm that I intervened in every case when I was informed of such abuses. I even

dismissed an official of that department when I heard of incorrect behavior; later I also parted with the department head.

DR. SAUTER: Why?

FUNK: Because these abuses had occurred. Just as previously I had done everything in my power to aid the Jews to emigrate by making foreign currency available to them, so now, in carrying out these directives, I did everything in my power within the scope of possibility to make things bearable for the Jews.

DR. SAUTER: Mr. President, this question as to what Funk's attitude was in practice toward the carrying out of these decrees which he himself as an official had to issue—this question I have also treated in a questionnaire approved by you, which has been submitted to the former State Secretary Landfried. That questionnaire was returned some time ago but it was discovered that a wrong questionnaire had been sent out by the office, and the correct answer was received only on Saturday. It is now being translated and I assume that this correct answer, this testimony of State Secretary Landfried, will be submitted to you in the course of the day and that it can then be entered in the appendix as Document Number 16. I presume, nevertheless, that there will be no objection to my reading the short answer of the witness Landfried in connection with this matter. Herr Landfried was from 1939 to 1943 state secretary...

THE PRESIDENT: Has the Prosecution seen the document?

DR. SAUTER: Yes, the Prosecution has the document.

MR. THOMAS J. DODD (Executive Trial Counsel for the United States): We haven't seen this document. We have seen the German text. I don't read German and I haven't had an opportunity to read it. It hasn't been translated.

THE PRESIDENT: The document can be submitted after the Prosecution has seen it. You needn't submit it at this moment. Have you any other witness or not?

DR. SAUTER: Not in connection with this topic.

THE PRESIDENT: No, no, but are there any other witnesses at all?

DR. SAUTER: One witness, Dr. Heidler, but for other subjects.

THE PRESIDENT: And presumably the defendant will be cross-examined.

DR. SAUTER: Yes.

THE PRESIDENT: These documents will be translated by then.

DR. SAUTER: Yes. Mr. President, if you so desire, then I will have to submit that document later, separately.

THE PRESIDENT: Yes.

DR. SAUTER: Dr. Funk, I come now to an accusation which, according to my knowledge, has not been mentioned in the trial brief yet; it concerns the problem of the occupied territories, that is, the spoliation of the occupied territories, costs of occupation, clearing systems, stabilization of currency, and the like. The Prosecution asserts that you actively participated in the program of criminal exploitation in the occupied territories. That can be found in the record of the proceedings on 11 January 1946 (Volume V, Page 167). That accusation is not further specified, but in the session of 21 February (Volume VIII, Page 60) there is a mere reference to a decree of the Reich Minister for the Occupied Eastern Territories, the Defendant Rosenberg. That decree was submitted by the Prosecution as Document Number 1015-PS; it is a decree by the Minister for the East, Rosenberg, to the Reich commissioners in the Occupied Eastern Territories. The decree informs the Reich commissioners of the task of the Einsatzstab Rosenberg—it has already been mentioned here on several occasions—namely, that of safeguarding objects of cultural value. I think I may assume that the Reich Ministry of Economics had nothing to do with cultural treasures as such. But—and that is very peculiar—it appears from Rosenberg's letter of 7 April 1942 that a copy of it went not only to various other offices but also to you, that is to say, to the Reich Minister of Economy. And from that fact—apparently from that fact alone—the Soviet prosecutor has deduced the charge that you actively participated in the spoliation of the occupied territories. I had to explain the connection in such detail in order to show exactly with what we are dealing. Can you speak quite briefly about it?

FUNK: Up to the time of this Trial I did not even know what the Einsatzstab Rosenberg was, what its tasks were, what it was doing. I have no knowledge that the Ministry of Economics had anything at all to do with the safeguarding of cultural treasures. I cannot say anything about it.

DR. SAUTER: You cannot say anything about this?

FUNK: No, not with regard to the Einsatzstab Rosenberg. About the policy in the occupied territories, I can say a great deal . . .

DR. SAUTER: That does not interest us now.

FUNK: But you will probably want to hear that later.

DR. SAUTER: Then, Dr. Funk, in the questionnaire sent to Dr. Landfried which I have mentioned before, I asked five or six questions concerning your attitude to the economic policies in the occupied territories. I also put questions to him on whether you

had given directives to the military commanders or the Reich commissioners for the occupied territories, or the heads of the civil administration in Alsace-Lorraine, and so on. Furthermore, I asked whether it is correct that economic directives also for the occupied territories did not come from you as Reich Minister of Economics but from the Delegate for the Four Year Plan. Then I asked about your attitude toward the question of exploitation of occupied territories, particularly in the West, the black market, devaluation of currency, and the like.

I cannot read the statements of the witness Landfried at this moment, because, through an error in the office, the answers from Landfried arrived only last Saturday. Since your personal testimony is now being heard, do you yourself wish to add anything to these questions, or would you just like to underline what I shall submit to the Tribunal as soon as I have received the translation? I put this question because it is practically the last opportunity for you to refer to these subjects.

FUNK: I should like to state my position on various matters, but the details of these problems can naturally be better explained by the state secretaries than by myself.

Concerning the directives to occupied territories, the Reich Marshal, as well as Reich Minister Lammers, has stated here that I, as Reich Minister for Economics, had no authority to issue instructions. The Reich Marshal, during his testimony here, stated, and I marked it down, "For the directives and the economic policies carried out by the Minister of Economics and Reichsbank President Funk, the responsibility is fully and exclusively mine."

And concerning the occupied territories, he also said that if I had issued special instructions in the course of official business between the ministry and the administrative offices in the occupied territories, then they derived from the general directives of the Reich Marshal and, as he said, were always based on his personal responsibility.

The position was that directives to the occupied territories in the economic field could only be given by the Delegate for the Four Year Plan. The carrying out of economic policy was the task of the military commanders or the Reich commissioners who were directly subordinate to the Führer. The military commanders, as well as the Reich commissioners, had under them officials from the various departments; among them, of course, also officials from the Ministry of Economics and the Reichsbank; and even private enterprise was represented. There was, of course, close co-operation between the offices of the military plenipotentiaries, the Reich commissioners, and the representatives of the various home departments, with the exception of occupied territories in Russia where

the Reich commissioners were subordinate to a special minister, that is, the Reich Minister for the Occupied Eastern Territories. This was an exception, but if we as a ministry wanted to have anything done by the military commanders or the Reich commissioners, we had to make a request or procure an order from the Delegate for the Four Year Plan.

The same applies to the heads of the civil administration in Alsace-Lorraine and in other territories where a civil administration had been set up. Here also, the numerous departments of the Ministry of Economics and the Reichsbank had no direct authority to issue directives.

However, I emphasize again that of course close official contact existed between the directing authorities in the occupied territories and the respective departments in Germany.

I myself—and witnesses will confirm this in questionnaires still outstanding, or in person—made the greatest efforts to protect the occupied territories from exploitation. I fought a virtually desperate struggle throughout the years for the maintenance of a stable currency in these territories, because again and again it was suggested to me that I should reduce the exchange rate in the occupied territories so that Germany could buy more easily and more cheaply in these countries; I did everything that could be thought of to maintain economic order in these territories. In one case, in Denmark, I even succeeded, in the face of opposition from all other departments, in raising the value of the Danish krone, because the Danish National Bank and the Danish Government requested it for justifiable reasons.

I opposed the increase of occupation costs in France in 1942 as well as in 1944. The memorandum of the Reichsbank which I authorized was quoted here by the American Chief Prosecutor.

The occupation costs were determined not by the Minister of Economics and the President of the Reichsbank but by the Minister of Finance and the Quartermaster General—in other words, by the highest Wehrmacht commands—and in the case of France, Denmark, and other countries, also by the Minister for Foreign Affairs.

Therefore, I did whatever I could possibly do—whatever was within my power—to keep the economy of the occupied territories in good order. I was successful finally in persuading the Reich Marshal to issue a decree which prohibited all German personnel from buying on the black market; but that happened only after many abuses in this respect had already occurred.

I want to emphasize also that I considered it necessary for the maintenance of order in the occupied territories that social life there should not be disturbed, and that, therefore, as a matter of

principle I was always against the forced or excessive deportation of foreign workers from the occupied territories to Germany.

I also expressed this in a conference with Lammers, which has been mentioned here. My state secretaries can confirm that. On the other hand it was naturally clear to me that Sauckel was in a very difficult, indeed desperate, situation. Again and again manpower for German economy was demanded of him. But, particularly after I had turned over the entire civil production to Speer and engaged in central planning, it was not only not to my advantage, from the point of view of my work, that manpower was brought to Germany from abroad, but it was indeed in my interest that the workers should remain in the occupied territories since the production of consumer goods had been transferred to a large degree to these territories; for as minister responsible for providing consumer goods to the population I had a great interest in seeing that orderly work should be done in the occupied territories and that no economic or social disturbances should occur.

I believe, however, that it will be more to the purpose if my two state secretaries and the Vice President of the Reichsbank, the acting Director of the Reichsbank, Puhl, make detailed statements on these problems, because they were more closely connected than I with carrying matters into practice.

If the accusation is made against me that with the aid of the clearing arrangements we spoliated occupied territories and foreign countries, I can only say that the clearing arrangement was not originally introduced by us in our dealings with the occupied territories or during the war, but that it was the normal method of trade between Germany and her business partners. It was a system which had been forced upon us—and that has been pointed out by Schacht—when other nations resorted to using the proceeds of German exports for the payment and amortization of German debts.

At all times, however, I have emphasized that the clearing debts were real debts for merchandise, and that is important. I have said again and again that this clearing debt was a genuine debt of the Reich and would be repaid at the rate, the purchase value which was in force at the time when we entered into these obligations. I especially stated that, in detail and as clearly as possible, in my last speeches in Vienna in March 1944, and in Königsberg in July 1944.

Beyond that, in July, I made the suggestion that after the war the clearing debt should be transformed into a European loan, so that it should not remain on the narrow plain of a bilateral exchange of goods but be effectively commercialized; from this can be seen distinctly that I always considered that clearing debt a genuine debt, so that the nations in the occupied territories who

had such claims on Germany could and would be satisfied with the war—and, as I constantly emphasize, at the same rates that existed at the time when the debt was incurred. If, however, the countries would have had to pay reparations on the basis of peace treaties, then these reparations of course, quite reasonably, could only have been paid in goods; and then, equally reasonably, it would have been possible to create a balance between German debts and German claims.

But I never left any doubt about the fact that the clearing debt was to be considered a true debt. Therefore, I have to reject the accusation that with the aid of the clearing system we exploited the occupied territories. And I have to reject even more strongly the accusation that I share responsibility for the burden of unbearable expenses, particularly occupation costs and other outlays of money, which were imposed on the occupied territories. It can be proved that I always objected to excessive financial burdening of the occupied territories. The witnesses will later testify and confirm this.

DR. SAUTER: Mr. President, the defendant has referred to two speeches which he made in Vienna and in Königsberg. These are two addresses which deal in part with the subject of clearing debts, and in part also with the defendant's favorite subject of a European economic union between Germany and her neighbor nations, that is to say, an economic union on the basis of full equality.

In the interest of time, may I just ask that judicial notice be taken of these speeches, the essential content of which has been stated partly by the defendant and partly by me: The speech of the defendant at Vienna on 10 March 1944, Number 10 in my document book, and the speech in Königsberg on the occasion of the 400th anniversary of the university of his home province, on 7 July 1944, Number 11 in my document book.

MR. DODD: Mr. President, if this Document Number 11 is offered by the defense for the purpose of showing what this defendant's policy was toward the occupied countries, then I think it is proper for me to point out that the speech did not refer to the occupied countries but rather to the satellite states of Germany.

DR. SAUTER: Mr. President, may I also call attention to Document Number 3819-PS, which has already been submitted by the Prosecution. That is the record, which the defendant has mentioned, of the meeting with Minister Lammers on 11 July 1944.

According to this record, the Defendant Funk was present at that meeting, and mention is made of him in one sentence only; I quote, on Page 8 at the bottom: "Reich Minister Funk expects considerable disturbances of production in non-German territories in case of ruthless raids."

This sentence, if taken from its context, is difficult to understand, but viewed in its proper connection, it makes it clear that the Defendant Funk wanted to warn against violent action in the recruitment of foreign workers for German production and for German armaments. He warned against any violent measures—against raids, as they are called in the protocol, because thereby, in his opinion, production in the occupied territories would be disturbed.

Then, Mr. President, may I mention another document. It is Document Number 2149-PS, and it contains the following: A statement of the Reichsbank, dated 7 December 1942, "concerning the question of increasing French contributions to occupation costs."

May I say in advance that the cost of occupation in France was increased, but not upon the suggestion of the Defendant Funk and not with his approval, but in spite of his protest. And this statement to which the Defendant Funk has referred, and which I have just quoted—it is dated 11 December 1942—lists in detail the reasons why Funk and his Reichsbank very definitely protested against any increase in the cost of occupation.

In this connection, may I be permitted to question the Defendant Dr. Funk on the cost of occupation in Greece.

[Turning to the defendant.] Did you hear the testimony of the witness Dr. Neubacher, who was Minister to Romania and Greece, and who confirmed that there, also, you tried to reduce the cost of occupation?

THE PRESIDENT: Are you going to be much longer?

DR. SAUTER: Yes, I believe, Mr. President, it would be better if we adjourned now. I still have to put a few questions.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

THE PRESIDENT: The Tribunal will adjourn this afternoon at half past four.

DR. SAUTER: Witness, I would like to return to the question of the so-called spoliation of the occupied countries. As Reich Minister of Economics, which you were at the time, you can certainly inform us from your personal experience and observation of the contribution of the occupied territories to Germany's war effort.

FUNK: The achievements of the occupied territories for the joint carrying on of the war were without doubt of great significance. I have always regarded the occupied territories synchronized with the total German economy as one great productive organism for carrying on the war, which would lead to a new order in Europe. Usually the same basic economic principles applied in the occupied countries as in Germany. In 1944 I had statistics compiled to show just how much the occupied countries had produced for the war effort in the 3 years of 1941, 1942, and 1943, and we reached the figure of 90,000 million Reichsmark. That is certainly an extraordinarily high figure, but one must not forget that the currencies of the various countries were converted into Reichsmark. That is, the reduced purchasing power of the various currencies is not expressed in these figures. In truth, therefore, the production is lower than these Reichsmark figures might show.

At the same time Germany utilized at least two-thirds of her entire production, that is, about 260,000 million marks worth, for the European war effort, in other words, almost three times as much as the occupied countries. Almost up to the time of the invasion I succeeded, in the case of France, in regulating the financial and monetary system and thus also the economic and social order to such an extent that, at the end of the German occupation, French finances were actually much healthier than German finances, and if it had not been for the circumstances resulting from the elementary impact of the war, France would have been able to construct a healthy monetary system on this basis.

My statistics are confirmed to a certain degree by a document which was submitted here. This is Exhibit RF-22 (Document Number F-515), and deals with the French deliveries to Germany. It is an official report to the French Government about forced labor in France. In this report there are tables on Pages 38, 39, and 40 showing the amount of French deliveries to Germany in proportion to the entire French production. These figures show that out of the entire French production with which we are dealing, in these three years an average of 30 to 35 percent was sent to Germany for the

joint war effort. In some fields, and especially those which are necessary for the provisioning of the French population, such as textiles, pharmaceutical supplies, gas, electricity, and so forth, these figures are considerably lower and in some cases amount to only 5 or 6 percent. But as an economist I admit without hesitation that if these matters are not regarded from the point of view of the joint carrying on of the war and the joint economic relationship, a deduction of 35 percent means a lot and must naturally have serious repercussions for the entire economy.

I have no specific figures at hand for the Russian territories. The Ministry of Economics itself was entirely excluded from the war economy of these territories; we merely attempted to allow certain firms or companies to operate in these territories as private enterprises there, that is to say, they were to buy and sell at their own risk. I did not participate otherwise in the management of these regions outside of the fact that I was chairman of the supervisory board of the Continental Oil Company, which operated in these regions in conformity with the provisions of the Four Year Plan and the orders of the Wehrmacht. But I personally, as chairman of the supervisory board, had only to manage the financial affairs of this company.

DR. SAUTER: Witness, at the end of this morning's session you spoke of the so-called Central Planning Board, a body about which we have heard a good deal. You stated, although quite briefly, that as Minister of Economics you had no interest in the fact that foreign workers were transported to Germany, no matter whether for armament or other purposes. Did I understand you correctly?

FUNK: That applies to the time when I became a member of the Central Planning Board.

DR. SAUTER: When was that?

FUNK: I was called into the Central Planning Board in the fall of 1943, when I turned over all production matters to Speer and when, for the first time, on 22 November 1943 I attended a session of the Board. At that time I not only had no interest in having foreign workers brought to Germany but actually, from the economic aspect, I wanted to have the workers remain abroad, for the production of consumer goods had, to a large extent, been shifted from Germany to the occupied countries so that in other words this production, that is, French production or Belgian production, could work unhindered for the German populace; I did not want the workers taken away, and particularly I did not want them to be taken away by force, for in that way the entire order and the whole social life would be disturbed.

Before that time, as Minister of Economics, I was naturally interested in seeing that the German economy had workers. However, these questions were not dealt with in the Ministry of Economics, but either in the Four Year Plan, where a Plenipotentiary General for Labor had been active from the beginning . . .

THE PRESIDENT: *[Interposing.]* Surely we heard all this this morning. It was all given this morning.

DR. SAUTER: In connection with the Central Planning Board, perhaps I might refer to one more document, Mr. President.

[Turning to the witness.] And this, Witness—and please confine your answer to this letter only—is a letter which you once wrote to Field Marshal Milch and which was submitted, I think, by the French Prosecution as Exhibit RF-675, (Document Number RF-675). In this letter, Herr Funk, you apologized for participating so very infrequently in the meetings of the Central Planning Board. And at that time you sent two experts from your ministry to the session, that is, two experts in the field of administrating civilian supplies and of the export trade. As deputy of your State Secretary, Dr. Hayler, who will be called later as a witness, a certain Ohlendorf participated at this meeting of the Central Planning Board. You have already seen this man, Ohlendorf, in this courtroom on the witness stand. I should be interested to know what were the functions of this man Ohlendorf who apparently belonged to your ministry.

FUNK: As far as the negotiations of the Central Planning Board were concerned, I was essentially interested only in the fact that in that meeting the necessary raw materials were allocated for the administration of consumer goods and the export trade. For that reason Ohlendorf and two other experts for the administration of consumer goods and the export trade were sent to the meeting. Ohlendorf was brought into my Ministry by State Secretary Hayler. Before that I had only known Ohlendorf vaguely from one or two meetings and I had had an extraordinarily favorable impression of him, for he had an extremely lucid mind and could always express his thoughts in a most impressive way. Before that time I didn't even know that Ohlendorf had another position in the Reich Security Main Office, for he was introduced to me as a manager of the Main Organization for German Trade. Hayler was the chief of this organization, of the Reichsgruppe Handel, and Ohlendorf was his manager and was introduced to me as such. Therefore I had no objections to Ohlendorf being brought into the ministry and taking over that field which corresponded to his private business activities up to now—the province of administration of consumer goods.

Then through Hayler I discovered that Ohlendorf was active also in the RSHA—or whatever the name is—as an office chief in the SD. However, I took no exception to this activity, for I was not fully acquainted with these assignments and in any case I was not convinced that anything was taking place which was unacceptable for the Ministry. Ohlendorf was active chiefly as manager of the Reichsgruppe Handel. As far as I know, he only had an auxiliary occupation in the RSHA, or however it was called. Naturally I was very much affected and painfully surprised when I heard here about assignments which Ohlendorf with his "Einsatzstab" had had in previous years in Russia. I had never heard one word about this activity of Ohlendorf. He himself never mentioned these things to me and until this time I did not know the type of assignments such "Einsatzstäbe" had.

Ohlendorf never talked about his activity in the SD. Hayler, who knew him much better and more intimately than I did, is better qualified to give information. In any event I knew nothing of this activity of Ohlendorf, which after all he had carried on in years prior to this date, and I was very much affected to find that this man had done such things.

DR. SAUTER: Witness, I must ask you to state your position in regard to the testimony given by another witness, whom we have seen and heard in this courtroom. This witness is Dr. Blaha, who made a report in this courtroom about the conditions in the concentration camp at Dachau and who testified—as you probably will recall—that in and around Dachau it was common talk that the Reich Minister of Economics, Dr. Funk, had also been present at one of these official visits to the camp. As you recall, this witness replied to my question that he himself had not seen you, but that your name had been mentioned in this connection by other inmates. Were you ever at Dachau or at any other concentration camp?

FUNK: No, I was neither at Dachau nor in any other concentration camp.

DR. SAUTER: Can you say that with a clear conscience under your oath?

FUNK: Yes.

DR. SAUTER: The witness, Dr. Blaha, has also testified to the fact that this inspection of Dachau took place following a discussion among the finance ministers which had taken place at Berchtesgaden or Reichenhall, or somewhere in that vicinity. Therefore I ask you: Did you ever participate in a meeting of finance ministers, or at least at the time Blaha claims?

FUNK: No, I never participated in a meeting of finance ministers, because I myself was never such a minister. And at that time I did not participate in any international discussions at all. No.

DR. SAUTER: Dr. Funk, as far as your health is concerned, this is not a good day for you. You have complained about the bad pains which you are suffering today. Consequently, I do not wish to put any further questions to you, except one in conclusion, which I am sure you will be able to answer briefly.

Why did you remain in your office as Reich Minister of Economics and as President of the Reichsbank until the very end?

FUNK: I considered myself bound to remain in this position as long as I could, in order to serve and be of use to my people. It was precisely during the last few years of the war that my position was a very difficult one. The administration became greatly disorganized and I had to make exceptional efforts in order to procure supplies for the people, especially those who had been bombed out. I continually had to protect the supplies and supply depots from arbitrary seizures by the Gauleiter. In the case of one Gauleiter, I had to call the police. I did not follow the "scorched earth" policy which the Führer had decreed, so that even after occupation by the enemy powers the supplies which were left could be used by the German people.

I had had instructions from the Führer to issue a decree according to which the acceptance of allied invasion currency would be high treason and punishable by death. I did not issue that decree. I made every effort to prevent State property and State money from being destroyed and wasted. I saved the gold deposits and foreign exchange deposits of the Reichsbank which were in the greatest danger. Briefly, until the last minute I believed it was my duty and responsibility to carry on in office and to hold out until the very end. Especially when we Germans learned that, according to the Morgenthau Plan, the status of the German people was to be degraded into that of shepherds and goatherds; that the entire industry would be destroyed, which would have meant the extermination of 30 million Germans. And especially after Churchill had declared personally that the German people would suffer from hunger and that epidemics would break out, only one thing was possible for me and for every decent German, and that was to remain at his post and do everything within his power in order to prevent this chaos.

I had no talent for being a traitor or a conspirator, but I always loved my fatherland passionately and my people as well, and up to the end I tried to do everything possible to serve my country and my people and to be of use to them.

DR. SAUTER: Mr. President, perhaps in connection with this alleged visit to a concentration camp I might refer to a questionnaire which we received from the witness Dr. Schwedler, and which is found in the supplementary volume for the Funk case as Document Number 14. This affidavit, of the contents of which I would like to have you take official notice, essentially confirms that, since 1 February 1938, the witness Dr. Schwedler was the daily companion of the Defendant Funk; that Dr. Funk never visited a concentration camp; and that the witness would have to know of it if it were the case.

With these words, Mr. President, I conclude my examination of the Defendant Funk. I thank you very much.

THE PRESIDENT: Do any of Defendants' Counsel wish to ask questions?

Dr. Sauter, you said you were referring to an affidavit of Dr. Schwedler? Which was Number 14? You said you were referring to Dr. Schwedler's affidavit which you said was Number 14 in your supplementary book. It does not seem to be in ours.

DR. SAUTER: I beg your pardon, Mr. President, it is Number 13. I made a mistake. It is Number 13; in the supplementary volume, Number 13, Dr. August Schwedler. It is a questionnaire.

DR. OTTO NELTE (Counsel for Defendant Keitel): Witness, I have one question which I would like to put to you. The Prosecution has accused the Defendant Keitel as chief of the OKW, you as Plenipotentiary for the Economy and Minister Frick as Plenipotentiary for Administration, on a common ground. The men in these three offices are mentioned in the Reich Defense Law of 1938. Undoubtedly, they probably exerted certain functions which might be of significance. The Prosecution in this connection spoke of a Three Man College and attributed much authority and significance to this Three Man College in connection with the point the Prosecution is making of the planning and preparation of aggressive wars.

Now I ask you: Was there such a Three Man College and what were the functions of these three offices which have been mentioned, according to the Reich Defense Law?

FUNK: Due to the confusion reigning in the German administration we ourselves could scarcely keep things straight; so it is not surprising if the Prosecution is in error on this point. I myself never heard of this three-man committee or Three Man College until this proceeding. I did not know that I belonged to such a three-man committee or Three Man College or triumvirate or anything else. On the basis of the Reich Defense Law similar powers were given to the Chief of the OKW, to the Plenipotentiary

for Administration and to the Plenipotentiary for Economics. These three, in deviation from the existing laws, could issue directives in which they had mutually to participate.

But it was the purport of this order that these directives could only be of a subordinate nature, which on the whole applied solely to the sphere of activity of the offices involved. Legislation for more important matters was made either by the Ministerial Council for Defense of the Reich—later only by way of circulating the bill from one minister to the other—or by Führer decrees. As far as I know there were only three, four, or five meetings of this body. Later, the decrees of the Führer were the real, the essential way of issuing laws. They were issued by the Führer personally, and the offices involved were frequently only informed of the same. Therefore the three-man committee is only a fiction.

DR. NELTE: Thank you. I have no further questions.

DR. DIX: Dr. Funk, you spoke of the law for the regulation of national labor and you said that that law was issued under your predecessor. You spoke about "my predecessor."

FUNK: No, you are wrong; I said "predecessors."

DR. DIX: Predecessors. Can you tell the Tribunal under which Reich Minister of Economics that was issued?

FUNK: This law was issued under Reich Minister of Economics Dr. Schmitt, as far as I remember. And the subsequent agreement with the German Labor Front probably took place in part under Schacht. I particularly remember the so-called Leipzig Resolutions.

DR. DIX: Then you also mentioned that there was an office subordinate to Schacht as Plenipotentiary for War Economy. You will remember that the witness Vocke denied the existence of such an office of Schacht's as Plenipotentiary of War Economy, and Schacht did the same thing. Which office did you mean? Describe the office that you mean.

FUNK: It was not an office in the sense in which it might have been interpreted here. It was a committee of experts of the various departments which was led by the representative of the Plenipotentiary for War Economy, who was Schacht, and later by my representative as Plenipotentiary for War Economy. Under Schacht's term of office it was State Counsellor Wohlthat and in my term of office it was Schacht's former State Secretary, Posse.

DR. DIX: Certainly. Now is it identical with the working committee which originated on the basis of the old Reich Defense Law and which existed before 1933?

FUNK: I am not familiar with that.

DR. DIX: In any event, this working committee was composed of the various departments?

FUNK: Yes.

DR. DIX: Together with the OKW?

FUNK: With the OKW, with the Ministry of the Interior, and later, with the decisive participation of the Four Year Plan representative.

DR. DIX: And the expert for Schacht during Schacht's term was Dr. Wohlthat?

FUNK: As far as I know, yes.

DR. DIX: Then one more question. You talked about the so-called triumvirate with reference to a question by my colleague for the Defendant Keitel. The creation of the triumvirate, this activity which you have described, was after Schacht's time, I believe.

FUNK: Yes, I believe so. But there was no activity.

DR. DIX: No.

FUNK: I never participated in any session of the so-called Three Man College.

DR. DIX: No. You said it was a fiction.

FUNK: Furthermore, no meeting of these three men ever took place.

DR. DIX: No; you said it was a fiction.

DR. ROBERT SERVATIUS (Counsel for Defendant Sauckel): I have a question regarding the wages of the foreign workers. Did Sauckel make any special efforts in connection with the transfer of the wages? Do you know anything about that?

FUNK: Yes. Sauckel insisted very frequently at the Reichsbank and the Reich Ministry for Economics that there should be a large-scale transfer of wages to foreign countries and the occupied territories. Naturally we were in a very difficult position here, because especially in the southeastern European countries the currencies had been greatly devaluated, and the purchasing power of German money had sunk considerably, whereas I maintained the stable rate of exchange so that the inflationary tendencies in these countries would not be strengthened and result in complete economic chaos through the fault of the currency control. Therefore we had to make additions to the payments to make up somewhat for the devaluation of the money in the occupied and other countries. Altogether, considerable sums were transferred. I would estimate these sums to be at least 2,000 million Reichsmark.

DR. SERVATIUS: Do you know whether Sauckel tried to do something about the clothing for foreign workers? Was anything done?

FUNK: He made considerable efforts, and this was particularly hard on the Ministry of Economics, because with the small amount of raw materials which the Central Planning Board had made available this Ministry had to take care of the population, and through the ever growing number of people bombed out we received ever greater demands for supplies. Yet, in spite of that, we tried to comply with the demands of Sauckel as far as possible, but of course we could not do so entirely.

DR. SERVATIUS: To what extent was clothing material delivered? Can you give any figures?

FUNK: No, I cannot.

DR. SERVATIUS: Do you know anything about Sauckel's attitude towards Himmler, since, according to the Prosecution, he collaborated with him?

FUNK: I remember one particular incident. When I had fled to Thuringia with my gold reserve and the rest of my foreign exchange I called on Sauckel one evening; State Secretary Keppler, who has been mentioned here frequently, was also present.

In the course of the conversation Sauckel and Keppler got into a terrific dispute with Himmler. Sauckel told Himmler quite plainly that he had destroyed the administrative unity in Germany; that he was mainly responsible for the disorganization of the German administration, for through the SS he had created a state within a state. Sauckel said further, "How can the people keep discipline if the top men of the Reich themselves cannot keep discipline?"

DR. SERVATIUS: I have no further questions.

DR. EGON KUBUSCHOK (Counsel for the Defendant Von Papen): Is it true that after Von Papen's speech at Marburg in June 1934 Hitler asked you to go to Reich President Von Hindenburg at his country estate in Neudeck and to tell him the following:

Vice Chancellor Von Papen, because he was forbidden to make his speech public, had asked to be allowed to resign. This resignation would have to be granted, because Von Papen through his speech at Marburg was guilty of a severe breach of Reich Cabinet discipline.

FUNK: When Reich President Von Hindenburg was at his estate at Neudeck he frequently invited me to visit him. I have already mentioned that I associated with him on familiar terms. A visit like this took place when the matter of the Von Papen speech at Marburg arose, and the Reich Marshal suggested to the Führer, as far as I recall, to have me inform the Reich President about this incident.

The Führer had me do this, and I told the Reich President that a conflict had arisen between the Führer and Von Papen because of a certain speech. I did not know the contents of this speech, since in the meantime its publication had been forbidden. Then the Reich President simply replied, "If he does not maintain discipline, then he must be prepared to take the consequences."

DR. KUBUSCHOK: Thank you.

DR. HEINZ FRITZ (Counsel for Defendant Fritzsche): Witness, when and where did you meet your Codefendant Fritzsche?

FUNK: When he was active in the press section of the Propaganda Ministry. One day he appeared before me and wanted money for "Transocean," and I granted him this money.

DR. FRITZ: You were State Secretary in the Propaganda Ministry at that time?

FUNK: Yes.

DR. FRITZ: That was in what year?

FUNK: That must have been in 1933 or 1934.

DR. FRITZ: When he came to you, did you know what position Fritzsche had in the Propaganda Ministry at that time?

FUNK: I knew that he was in the press section.

DR. FRITZ: Was this a leading position which he had? Was he perhaps head of a department?

FUNK: No. At that time the head of this department was Dr. Hahnke as far as I remember. Later it was Berndt.

DR. FRITZ: Could you observe whether Fritzsche was in any close contact with Dr. Goebbels?

FUNK: I was never called in to attend any of the discussions which Dr. Goebbels had daily with his experts. That was done through his personal assistant, Dr. Hahnke who later became State Secretary. But since Fritzsche was not the head of a department I assume that he was not called in to these discussions either. As far as I know mostly the heads of departments were called to these discussions, but certainly not Fritzsche.

DR. FRITZ: Then according to your knowledge, in your capacity as State Secretary at that time, he was not one of the closer collaborators of Dr. Goebbels, if I understood you correctly.

FUNK: At that time I do not believe so. Of course, I do not know what took place later.

THE PRESIDENT: The Prosecution?

MR. DODD: Witness, can you hear me?

FUNK: Yes.

MR. DODD: We have listened to your testimony since late Friday afternoon, and, as we understand it from your statements, you admit none of the charges made against you in the Indictment in any degree, with possibly one exception. I am not clear as to whether or not you were making an admission this morning with respect to your part in the persecution of the Jews. Would you tell us now whether or not you intended to admit your own guilt or the part that you played in the persecution of the Jews?

FUNK: I said this morning that I had a deep sense of guilt and a deep sense of shame about the things which were done to the Jews in Germany, and that at the time when the terror and violence began I was involved in a strong conflict with my conscience. I felt, I could almost say, that a great injustice was being done. However, I did not feel guilty in respect to the Indictment against me here, that is, that according to the Indictment I was guilty of Crimes against Humanity because I signed the directives for carrying out laws which had been issued by superior offices—laws that had to be made so that the Jews would not be entirely deprived of their rights, and so that they would be given some legal protection at least in regard to compensation and settlement. I am admitting a guilt against myself, a moral guilt, but not a guilt because I signed the directives for carrying out the laws; in any event not a guilt against humanity.

MR. DODD: All right. That's what I wanted to thoroughly understand. You also told the Tribunal, that you—I think you used the expression "often at the door but never let in," and I understand that to mean that in your own judgment you were really a little man in this Nazi organization. Is that so?

FUNK: Yes . . .

MR. DODD: All right. That's an answer. You might want to explain it later, but for the present purposes that will do.

FUNK: May I give an explanation to this. I wanted to state that in the position I held, there were always higher authorities which made the final decision. That was the case in all the positions I held in the State.

MR. DODD: Well, let's both examine some of the evidence, and see whether or not you were in fact always subordinated and always a little man who didn't get in.

First of all, there's one matter that I do want to clear up before going into the general examination. You recall when the Defendant Schacht was on the stand, he told the Tribunal that after he left the Reichsbank he had an office in his apartment, is that so?

FUNK: Yes, he said that.

MR. DODD: Now of course you have told us, on another occasion, that he continued to have an office in the Reichsbank. Isn't that so?

FUNK: I don't know whether I said and where I said that, but it may be so. I was informed, at the time when he resigned, that he still went to the Reichsbank rather frequently, and that a room was reserved there for him. In addition he still had some personnel, a secretary whom he had taken with him from the Reichsbank—and that is all I know.

MR. DODD: Another question. You told us, on another occasion, that he had an office in the Reichsbank where he worked on certain bank data and where he still kept in touch with you every now and then. Isn't that so? Do you remember telling us that or not?

FUNK: No, it wasn't like that. Schacht seldom . . .

MR. DODD: If you don't remember, then I perhaps can help you a little bit. Do you remember being interrogated by Major Hiram Gans of the United States Army on June 2, 3, and 4 of 1945? Do you remember that? You know who was there—Göring was there, Von Krosigk was there, Lammers was there. . . .

FUNK: Yes.

MR. DODD: All right. You were asked this question, weren't you, or rather, preceding this answer there were some questions?

Question: "Did Schacht retain any governmental position after his dismissal as President of the Reichsbank?" Then Göring put in an answer: "Reich Minister." Then another question: "Did he have any functions?" Göring again answered: "He remained Minister without Portfolio." Then another question: "Were there any Cabinet meetings he attended?" Göring answered again: "There were no Cabinet meetings at that time." Question: "Then it was purely honorary?" Göring said: "Practically."

Then you interposed with this statement (Funk is speaking): "Schacht, after his dismissal, kept an office in the Reichsbank, where he worked on statistical data of the Reichsbank and where he still kept in touch with me every now and then." Question: "How long did this last?" Answer: "This lasted until Schacht's dismissal as Minister, probably in 1943."

You made those answers, that answer, did you not?

FUNK: That is not correct. I did not express myself that way. I said only that I had been informed that he came to the Reichsbank frequently, that there was a room reserved for him and that he very seldom spoke to me. He seldom called on me. That was not translated correctly.

MR. DODD: You know what I am reading from, do you not? You know this Document, Number 2828-PS?

FUNK: No.

MR. DODD: Parts of this are already in evidence as Exhibit USA-654. And later, in another form, I shall submit this part which I have just read.

Counsel Sauter, for you, this morning referred to a letter which you had written to Hitler, I believe it was in 1939, a very fulsome letter which you said was somewhat due to the general feeling at the time and also to the fact that it was about your 50th birthday. Is that so? There was another reason for your writing that letter in connection with your birthday, wasn't there? Do you know to what I refer?

FUNK: Yes.

MR. DODD: You received 520,000 Reichsmark from Hitler as a birthday present?

FUNK: No, that is not correct.

MR. DODD: Didn't you receive a present from Göring and Goebbels . . .

FUNK: Yes . . .

MR. DODD: Wait a minute till I get through—you don't seem to remember—you received a present from Göring and Goebbels in the first instance which had been made up of 250,000 Reichsmark from leading businessmen in Germany and 270,000 Reichsmark which came out of special accounts maintained by Göring and Goebbels. Then Hitler heard about that and ordered you to return that money because of the fact that some of it came from industry, and he himself gave you a so-called donation to the sum of 520,000 Reichsmark, isn't that so?

FUNK: The first is not correct, but the latter is correct. But may I explain the details; they are of a completely different nature.

MR. DODD: Go ahead.

FUNK: On my fiftieth birthday the President and Directorate of the Reich Chamber of Economics, the chief organization of the entire German economy, called on me and declared that because of my more than 20 years of service to German economy they wanted, with the approval of the Führer, to make me a gift of an estate in Bavaria. That was a doubtful present, for later I had much worry and trouble because of it. A large house was built there because, as I was told, the Führer had said that he also wanted me to work there. The taxes were so high, however, that I could not pay them, nor the remaining construction costs, either. Thereupon I did not

appeal to Göring, but Göring heard about it and had 300,000 Reichsmark given to me in order to help me out of my financial straits. I did not receive any money from Goebbels, but with the approval of Goebbels the film corporation joined the Chamber of Economics in giving me this money. When the Führer heard of the difficulties I had in paying taxes and making other payments he put a sum of 500,000 Reichsmark at my disposal. With the other money I received I made two donations, one of 500,000 Reichsmark to the Reichsbank for the families of the members of the Reichsbank killed during the war and another of 200,000 Reichsmark to the Reich Ministry of Economics for the families of members of that office who died in the war. I was able to live in, and pay for the upkeep of, this large house and grounds only because I had a relatively large income. However, from the beginning, when I saw the tremendous costs and expenses connected with it particularly in taxes, *et cetera*, I decided, in agreement with my wife, that after my death this estate should again be donated either to the Reichsbank or to my East Prussian homeland. I also discussed this several times with the Reichsbank Directorate.

MR. DODD: I am not much concerned with what you did with it, I only want to know if you got it. And you got it, didn't you? You got 520,000 Reichsmark.

FUNK: Yes.

MR. DODD: You also made a present out of public funds on your own account to the Defendant Frick on one occasion, didn't you? Didn't you give Frick a birthday present of 250,000 Reichsmark on 12 March 1942?

FUNK: That I don't know.

MR. DODD: You don't remember? You don't remember that? Do you know anything about the other gifts that were given to any of these other defendants out of public funds, either through your position as President of the Reichsbank or as an important functionary of the Nazi Party? Do you know anything about these other men and what they have got from the public treasury?

FUNK: These moneys were not given by me. They were given from the fund of the Führer by Lammers. I did not dispense such moneys.

MR. DODD: They were public funds, were they not? They did not come from anywhere else except the public? You don't know then that Rosenberg got 250,000 Reichsmark? Did you know that?

FUNK: No.

MR. DODD: In January 1944; you were then President of the Reichsbank?

FUNK: Yes, but these moneys never came from the Reichsbank. These were moneys from funds which were administered by Lammers and I assume that the moneys came from the Adolf Hitler donation or from other funds. But the Reichsbank had nothing to do with these funds.

MR. DODD: Do you know that Von Neurath got 250,000 Reichsmark on 2 February 1943? Do you know anything about that? You were the President of the Reichsbank then.

FUNK: I know nothing about that.

MR. DODD: You heard about Lammers and his 600,000 Reichsmark. You know that Keitel got 250,000 Reichsmark on 22 September 1942. You never heard about that?

FUNK: The Reichsbank had nothing at all to do with these things.

MR. DODD: You know that Von Ribbentrop got 500,000 Reichsmark on 30 April 1943. You never heard of that? General Milch got 500,000 Reichsmark in 1941; none of these things ever came to your attention?

FUNK: I never had anything to do with these matters. They were Lammers' concern and the money did not come from the Reichsbank.

MR. DODD: Now, I understood you to say that you were not the economic advisor in fact to Hitler or to the Nazi Party of the early days. That is in your own judgment you were not. It is a fact, however, that you were generally regarded as such by the public, by industrialists, by Party members and the high Party officials. Is that not so?

FUNK: I was called that, as I said here, on the basis of my activity in 1932. I acted as a mediator in conversations between the Führer and some leading economists and for a short while carried out the activity in the Party which has been described here.

MR. DODD: You have called yourself the economic advisor on occasion, have you not? At least on one occasion, during an interrogation, did you not refer to yourself as the economic advisor for the Party? You remember that?

FUNK: No.

MR. DODD: I think you will agree that you were generally recognized as such, but the really important thing is that the public thought you were.

FUNK: I have testified here that I was called that by the press and from the press this designation apparently went into record. I did not use this term myself.

MR. DODD: Were you the principal contact man between the Nazi Party and industry in the very early days?

FUNK: In 1932, and this is the only year which we need consider in connection with Party activities on my part, because I was not active in the Party before or after this year. I did arrange discussions between Hitler and leading men of industry, whom I can name. But other men also acted in that capacity; for example, State Secretary Keppler.

MR. DODD: I am not asking you about other men, I am asking you whether or not you were not a principal contact man. Actually you were encouraged by industry, were you not, to become active in the Party?

FUNK: Yes.

MR. DODD: You acted as a go-between for the Nazis and the big business in Germany.

FUNK: It did not take up much time, but I did it.

MR. DODD: Whether it took much of your time or not, that doesn't interest us. It took a little bit of your time. That's what you were doing?

FUNK: Yes.

MR. DODD: You remember Document Number EC-440 perhaps. It is really a statement that you made and prepared on the relationship of German industry to the Party in the National Socialist leadership of the State. You remember that paper you drew up on 28 June 1945? You may recall that you yourself said, "Keppler, who later became State Secretary, and who served as economic advisor to the Führer before me. . . ." You used that terminology. You recall that?

FUNK: Keppler?

MR. DODD: Yes, he was the advisor before you. You remember that?

FUNK: Yes.

MR. DODD: Now, in the Propaganda Ministry, if I understand you correctly, you want the Tribunal to believe that you were something of an administrative functionary and not a very important man, and you did not really know what was going on. Is that your position?

FUNK: No. I had quite a large task, and that was the direction of an extensive cultural and economic concern. I stated that here. It consisted of film companies, theaters, orchestras, the German Trade Publicity Council, and the administration of the entire German radio, an undertaking worth a hundred millions, that is to

say, a very extensive activity, an organizational, economic and financial activity. But propaganda was taken care of solely and exclusively by Goebbels.

MR. DODD: Yes. You knew the policies and the purposes of the Propaganda Ministry; there isn't any doubt about that?

FUNK: Yes.

MR. DODD: You knew that, did you not?

FUNK: Yes.

MR. DODD: All right. Now, we can pass on to one other matter that I referred to earlier, to clear up another matter. Do you recall that the Defendant Schacht, when he was on the stand, said, I believe, at that now famous meeting where a number of industrialists were gathered to greet Hitler, that he did not take up the collection? Schacht said he did not do it. I think he said that Göring did it or somebody else. Do you remember that testimony about Schacht on the stand? You remember being interrogated about that subject yourself?

FUNK: Yes.

MR. DODD: Do you remember what you told us at the time?

FUNK: Yes.

MR. DODD: What did you tell us?

FUNK: I said that Schacht after addresses by Göring and Hitler made a brief speech, and that he asked those present to, so to say, go to the cashier and subscribe, that is, raise money for the election fund. He took over the collection and said that the coal industry . . .

MR. DODD: Who?

FUNK: He said . . .

MR. DODD: Who was the one who took up the collection? I don't understand whom you mean by "he."

FUNK: Schacht.

MR. DODD: That's all I wanted to know about that. When did you first learn that the uprisings of November 1938 were not spontaneous?

FUNK: On the morning of 9 November, on my way from my home to the Ministry, I saw for the first time what had taken place during the night. Before that I had not had the slightest hint that such excesses and terror measures had been planned.

MR. DODD: I think you misunderstood me. I did not ask you when you first came to know about the uprisings; I asked you when you first learned that they were not spontaneous; when you first learned that they were instigated and planned by somebody else.

FUNK: I only found out about that later.

MR. DODD: Well, how much later?

FUNK: I believe very much later. Later on there was much discussion about this matter and it was never clear just who had been the instigator of these measures of terror and violence and where the order had originated. We knew that it had come from Munich. We had learned that in the meantime on 9 November; but, whether it was Goebbels or Himmler, and to what extent the Führer himself participated in this measure, I was never able to find out clearly. From my telephone conversation with Goebbels, which I mentioned today, one thing was clear: The Führer must have known about this matter, for he told me that the Führer had decreed, and Göring also said this, that the Jews were completely to be eliminated from economic life. From this I had to conclude that the Führer himself knew about this matter.

MR. DODD: Now from that telephone conversation we can also see one other thing. You knew that Goebbels had started this business, did you not, and that was the day after it happened? You knew it was not spontaneous and that is why you called up Goebbels and got after him; is that not so?

FUNK: Yes.

MR. DODD: How many days later did you make that inflammatory speech about what should be done to the Jews? About six days afterwards, did you not? I am referring to the one that was published in the *Frankfurter Zeitung;* your counsel referred to it this morning.

FUNK: Yes, to begin with . . .

MR. DODD: And in that speech you tried to make it appear to the public that that was a spontaneous uprising, did you not?

FUNK: Yes.

MR. DODD: That was not true, was it?

FUNK: I did not know that at the time. At that time I still believed that it was really something favored by large elements of the population. Very much later I found out that routine machinery had been put in motion.

MR. DODD: Are you telling this Tribunal now that on the morning of your telephone call to Goebbels, when you in effect blamed him for these uprisings, you were not well aware then that he had started it? Is that your position?

FUNK: At that time I did not know who had started this regime of terror and how it had been carried through; that was entirely new to me.

MR. DODD: If you did not know who started it, you knew that somebody started it and that it was not spontaneous?

FUNK: Yes.

MR. DODD: And still in your speech of 15 November you tried to make it appear to the public that it was just an uprising on the part of the German people, did you not?

FUNK: I based that on the attempted assassination of—I do not know who he was; some attaché in Paris—and actually the attempt caused much agitation. There is no doubt of it.

MR. DODD: Now I think you understand my question, Witness. You said on that occasion, you used these words: "The fact that the last violent explosion of the indignation of the German people because of a criminal Jewish attack against the German people took place," and so on, and you went on. You were trying to make it appear there that this was a spontaneous reaction of the German people, and I insist that you knew better and had known it for some days, had you not?

FUNK: But I did not know that that is what took place. I admit that I knew that an impulse had come from some office or other.

MR. DODD: Well, all right. When did you coin the expression "crystal week"? Do you know what that expression is; where it came from?

FUNK: "Crystal week?"

MR. DODD: Yes.

FUNK: Yes, I did use these words once in connection with this action.

MR. DODD: You coined the phrase.

FUNK: Because much was shattered.

MR. DODD: You are the fellow who started that expression. You are the man, are you not? that was your expression?

FUNK: Yes, I used it.

MR. DODD: And you were using it—because you made this *Frankfurter Zeitung* speech?

FUNK: I once characterized that action with that term, it is true, because much had been shattered.

MR. DODD: Now, let us move on a little bit to the well-known meeting of 12 November, when Göring and Goebbels and all of the other people made their remarks about the Jews and you said you were present. You did not make any objection that day to anything that was said, did you?

FUNK: No. I merely attempted to have certain things put through in order to save something for the Jews, for example, their securities and stocks. Then I managed to have the stores reopened, so that things would move less rapidly, and I did more, too.

MR. DODD: I understand that, but I thought this morning you were really pretty sensitive about the terrible things that had happened to the Jews, and you remember some of the suggestions that were made that day by Göring and Goebbels; they were pretty nasty things, were they not?

FUNK: Yes, I openly admitted that I was much shaken . . .

MR. DODD: Were you? Well . . .

FUNK: And that my conscience bothered me.

MR. DODD: All right. You went on after that and made your *Frankfurter Zeitung* speech and you carried out these decrees, even though your conscience was bothering you; is that so?

FUNK: But the decrees had to be issued. I have already emphasized that several times here. I had no pangs of conscience because the decrees were issued. I had pangs of conscience because of the reasons for them. But the decrees themselves—

MR. DODD: That is what I'm asking you about.

FUNK: But the decrees had to be issued. The reasons for them —yes; I admit that.

MR. DODD: You know Schacht said on the stand that if he had been the Minister of Economy he did not think those things would have happened? Do you remember him saying that here the other day, do you?

FUNK: Yes. He must have had very powerful and influential connections in the Party, otherwise he could not have been successful.

MR. DODD: You did not have these connections in the Party, did you? You were not in the Party, you were a Minister?

FUNK: No, I did not have these connections and I could not prevent these terror actions.

MR. DODD: Well, we will see about that. Your counsel has submitted on your behalf an affidavit from one Oeser, O-e-s-e-r; do you remember that man? O-e-s-e-r, do you remember him?

FUNK: Yes.

MR. DODD: Do you remember him?

FUNK: Yes.

MR. DODD: And his affidavit—interrogatory, I believe it was . . .

THE PRESIDENT: Mr. Dodd, we will adjourn for a bare 10 minutes.

[A recess was taken.]

MR. DODD: Witness, I was inquiring about this man Oeser when we recessed—O-e-s-e-r; do you recall him? He was one of your employees in the *Frankfurter Zeitung,* was he not?

FUNK: Yes, he was the chief of the Berlin administration office of the *Frankfurter Zeitung,* a respected journalist.

MR. DODD: Yes. You know, do you not, that you have an interrogatory or an affidavit from him, which you are submitting to this court; it is in your document book?

FUNK: He volunteered to do that.

MR. DODD: Well, I'm not asking you—that is all right—whether he did or not; I just wanted to establish that you know that he did.

FUNK: Yes.

MR. DODD: Now, in that affidavit, as I read it, Oeser maintains that you were really being quite decent about the Jews in that newspaper. Is that not so? Is that not the sense of it; that you saved them from dismissal and so on, you put them under the exceptions provided in the decrees?

FUNK: Yes.

MR. DODD: All right.

FUNK: I allowed quite a number of editors to come under these exceptions.

MR. DODD: Yes, I know. Now I want to ask you this: There was a real reason, other than decency towards Jews, for your conduct with reference to that particular paper, was there not?

FUNK: No.

MR. DODD: Well, now, wait a minute.

FUNK: I do not know these people personally.

MR. DODD: I do not say that you knew the people personally. I say that there was a reason, other than your feeling for Jews as people, but which you have not told the Tribunal about yet, another reason maybe.

FUNK: In the case of the editors of the *Frankfurter Zeitung?*

MR. DODD: Yes.

FUNK: No.

MR. DODD: Now, is it not a fact that you and probably Hitler, and certainly Goebbels, and some of the other higher-ups of the Nazi Party, decided that that paper should be left in *status quo* because of its vast influence abroad? Is that not true?

FUNK: We did not talk about that at that time. That issue came up later. It came when the Führer demanded that almost all leading daily newspapers should either be taken over by the Party or merged with Party papers. And on that occasion I succeeded in having exception made for the *Frankfurter Zeitung,* and the *Frankfurter Zeitung* continued to exist for a long time. But that was much later. Here, in fact, the only reason was to help a few Jewish editors.

MR. DODD: Well . . .

FUNK: It was a purely humane reason.

MR. DODD: You can answer this. I just wanted to get your answer on the record because I'll have more to say about it later. Do I understand you to deny that it was your established policy to preserve the *status quo* of the *Frankfurter Zeitung* because of its influence abroad?

FUNK: No, it was always my opinion that the *Frankfurter Zeitung* should remain as it was.

MR. DODD: Well, was it for the reason that I suggest, because these people were well known in the financial world abroad, and you did not want to impair the usefulness of that paper abroad? That's what I'm getting at, and I say that that is why you kept them on, and not because you felt badly about their plight as Jews.

FUNK: No, not in this case. In this case that was not the reason.

MR. DODD: Very well; now, with respect to your activities as the Plenipotentiary for Economy and their relationship to the wars waged against Poland and the other powers, I have some questions that I would like to ask you. Now I will tell you what it is about first, so you will be aware. You are not maintaining, are you, that your position as Plenipotentiary for Economy did not have much to do with the affairs of the Wehrmacht?

FUNK: Yes, I assert that. With the Wehrmacht . . .

MR. DODD: Now, I have in my hand here a letter which Von Blomberg wrote to Göring. Do you remember that letter? It is a new document and you have not seen it in this Trial, but do you remember any such letter?

FUNK: No.

MR. DODD: Well, I ask you to be handed Document Number EC-255.

[The document was handed to the defendant.] Mr. President, this becomes Exhibit USA-839.

[Turning to the defendant.] Now, in this letter from Von Blomberg, I am only concerned now with the last sentence, really. You will notice that Von Blomberg, in this letter, refers to the fact that Schacht had been appointed, but the last sentence says, or in the next to the last paragraph he first urges that you be appointed immediately, and that is underlined in his letter; and in the last paragraph he says:

"The urgency of unified further work on all preparations for the conduct of the war does not admit of this office being paralyzed until 15 January 1938."

This letter, by the way, was written on 29 November 1937. Certainly Von Blomberg thought that the job that he was suggesting you for would have some very great effect upon the conduct of the war, did he not?

FUNK: That may be, but in the first place, I do not know about that letter and, secondly, I was not immediately appointed Plenipotentiary for Economy but only in the course of 1938. Quite some time after I had been appointed Minister for Economics I asked Lammers why my appointment as Plenipotentiary for Economy had taken so long; he replied that my relationship to the Delegate for the Four Year Plan had to be cleared up first. That was the reason why several months passed before I became Plenipotentiary for Economy, because it had to be ascertained that Göring had the decisive authority for war economy . . .

MR. DODD: You really do not need to go into all that.

FUNK: I do not know about that letter, and I have never spoken to Von Blomberg about the affair.

MR. DODD: All right. You do recall perhaps that the OKW, after you were appointed, made some objection about the amount of authority that you had. Do you remember that?

FUNK: No.

MR. DODD: Now, I am holding here another new document, Number EC-270, which I will ask that you be shown, which will become Exhibit USA-840. While you are waiting for it, I will tell you that it is a letter written on 27 April 1938. You will notice that in the first paragraph of this letter from the OKW it says that the interpretation which has been put on the decree of the Führer—the decree of 4 February 1938—does not correspond to the necessities of total warfare.

And then you go down to the third paragraph on that first page and you will find other objections with respect to your authority.

Apparently at this time the OKW thought you had too much to do with what would be the war effort, and finally on the last page, Mr. Witness, if you will look at this paragraph, you will see this sentence—on the last page of the English, anyway; near the end of the letter this sentence appears:

"The war economy, which is subordinated to the Plenipotentiary, represents the economic rear area of the armaments industry."

And I want you to observe carefully those words "armaments industry."

And then it goes on to say:

"If this stage fails, the striking power of the Armed Forces becomes questionable."

I ask that you pay attention to the words "armaments industry," because I recall that this morning you said you had absolutely nothing to do with the armaments industry; but apparently the OKW thought that you did, on 27 April 1938. Is that not so?

FUNK: I do not know this letter either. I do not know the attitude of the OKW but I do know this: The OKW, especially the Codefendant Field Marshal Keitel, was of the opinion at that time that I, as Plenipotentiary General for War Economy, should assume the authority and competence of Schacht; but there was a conversation between the Reich Marshal and Field Marshal Keitel—Keitel confirmed this to me—in which the Reich Marshal clearly declared; "The war economy will not be turned over to Funk." I can honestly and sincerely say that I did not have the slightest idea of all these things. I did not know what kind of position the OKW intended me to have. I never had that function because the administration for the armaments industry was never included in the Ministry of Economics. I do not remember the matter.

MR. DODD: All right. That is your answer. I suppose at the time you were also aware, as you told the Tribunal, that you were really subordinate to Göring and in a very inferior position about all of these things. Is that so?

FUNK: Yes.

MR. DODD: I am going to ask you to look at another Document, Number EC-271, which will become Exhibit USA-841, and this document consists of a letter which you wrote to Lammers, a letter which Lammers wrote to the Chief of the High Command, Field Marshal Keitel, and one or two other letters not pertinent for the purposes of this present inquiry. It was written on 31 March 1938, and I want you to turn to the second page because that is where your letter appears. The first page is just a letter of transmittal

from Lammers to Keitel, but let us look at the second page. Have you got it?

FUNK: Yes.

MR. DODD: You are writing to Lammers and you say—I am not going to read the whole letter, but the second paragraph. You wrote to Lammers and you say among other things:

"On the occasion of a trip to Austria I have, among other matters, also talked to Field Marshal Göring about the position of the Plenipotentiary for War Economy. I pointed out in this conversation that, contrary to the attitude of the OKW, of which I was informed, the decree of 4 February 1938 concerning the leadership of the Wehrmacht did not change the position of the Plenipotentiary for War Economy."

And you go on—aside from the fact that the decree applied exclusively to the command of the Armed Forces, and so on, and that especially the last paragraph of that decree stated that you were dependent upon instructions of the Führer—to say:

"Moreover, among the instructions of the Führer is included the decision of the Reich Government of 21 May 1935, according to which the Plenipotentiary for War Economy, in his sphere of duty as supreme Reich authority, is immediately subordinated to the Führer.

"General Field Marshal Göring assured me that my interpretation, as mentioned above, was correct in every respect and also corresponds with the Führer's opinion. Thereupon I asked him to give me a brief written confirmation. Field Marshal Göring promised to grant this request."

Now, you wrote that letter to Lammers, did you not, on 31 March 1938, "yes" or "no?"

FUNK: Certainly.

MR. DODD: All right. You were trying to have supreme authority and make yourself answerable only to the Führer and that is what this contest was about, and that is what Document Number EC-271 referred to and this is your answer to the OKW's objection that you had too much power. This does not look like you were a little man, does it, Mr. Witness?

FUNK: Yes. I wanted to clarify the position, but later it was not clarified in that sense but in the sense that I was dependent upon the directives of the Reich Marshal. I wrote this letter in order to try to obtain a clarification, but I do not remember this letter in detail.

MR. DODD: You told Lammers . . .

THE PRESIDENT: Mr. Dodd, is not this letter that you have just read the very letter which is referred to in the letter which you put to him immediately before?

MR. DODD: Yes, Sir, it is. It referred to EC-271. I am sorry, I said 271, I meant 270.

THE PRESIDENT: GB Number 649/38 is the letter you just read. Will you look at the first paragraph of EC-270; the letter referred to there, criticizing, is the Defendant Funk's letter you just read.

MR. DODD: Yes, it is, your Honor.

[Turning to the witness.] My point here, Mr. Witness, is that, you see, you told the Tribunal that you really just worked for Göring; that you did not have much to say about these things, but now we find that you were writing a letter asserting your supreme authority and saying now, "it is a fact that I am really only answerable to Hitler," and, you see, those two are quite inconsistent. What have you got to say about that?

FUNK: Yes; in fact, I was never successful.

MR. DODD: Now, let us see if you were not. Now you turn another page in that document and you will find another letter from Lammers, written on 6 April 1938, and it is written to you, and he tells you that you are just right in what you understood to be your position; that you are indeed only subordinate to the Führer and that he has sent a copy of your letter to both Field Marshal Göring and the Commander of the OKW. Now, what do you say about that?

FUNK: I see from this that I tried at that time to achieve that post, but in fact I never succeeded because the Reich Marshal himself stated later that he would never turn over the war economy to me. The formal authority of the Plenipotentiary for Economy was turned over to the Four Year Plan by a decree of the Führer of December 1939.

MR. DODD: Well, is that your answer? Now, you also have told the Tribunal, as I understood you at least, that you really did not have much to do with the planning of any aggressive wars, and that your activities were restricted to regulating and controlling the home economy, so to speak. Now, actually on 28 January 1939, which was some months before the invasion of Poland, you were considering the use of prisoners of war, were you not?

FUNK: That I do not know.

MR. DODD: Are you sure about that? Now I will ask that you be shown another document, Number EC-488 which becomes Exhibit USA-842. This is an unsigned letter, a captured document from

your files. This letter, by the way, was transmitted under the signature of Sarnow. You know who he was; he was your deputy. Now, this letter, dated 28 January 1939, says that its subject is "Re: Employment of Prisoners of War." Then it goes on to say:

"Under the Reich Defense Law of 4 September 1939 I have the direction for the economic preparations for the Reich defense, except the armament industry."

Then it goes on, "For the utilization of labor . . ." and so on. But what I want to call your attention to particularly is the sentence in the second paragraph which says:

"The deficit in manpower may force me to the employment of prisoners of war as far as possible and practical. The preparations, therefore, have to be made in close co-operation with the OKW and GBW. The offices under my jurisdiction will duly participate therein."

Remember that communication?

FUNK: No, I have never seen that letter, and never signed it. But that letter belongs to the matters about which I spoke this morning. The office of the Plenipotentiary for Economy—moreover, I see "Plenipotentiary for War Economy" is scratched out—was continuously occupied with these things. I personally had nothing to do with it.

MR. DODD: Well now, that is rather playing with words. This was your Ministry that was making these suggestions, and your principal deputy who transmitted this letter, is that not so?

FUNK: No, that was . . .

MR. DODD: Now, you look up in the right hand corner of that letter and see if it doesn't say "The Plenipotentiary for the Economy," and then it gives the address and date.

FUNK: Yes, and it is signed "By Order: Sarnow."

MR. DODD: That is right, and he was your principal deputy, was he not?

FUNK: No.

MR. DODD: What was he?

FUNK: He only worked in the office of the Plenipotentiary General. My main deputy, who was in charge of those things, was Dr. Posse.

MR. DODD: Well now, at any rate . . .

FUNK: As I have said before, I personally had nothing to do with these things whatsoever.

MR. DODD: It has just been called to my attention that if you say the man was Posse, then in the second paragraph of that letter

you can find his name: "I can refer to the statements of Generaloberst Keitel, State Secretary Dr. Posse . . ." At any event, important people in your organization were involved in this thing, were they not?

FUNK: Certainly.

MR. DODD: All right. Now, you remember the Document Number 3562-PS. It was introduced here as Exhibit USA-662. It is the minutes of a meeting set out by Dr. Posse, your deputy, which discussed a memorandum for financing the war, and you talked about that this morning and you said that despite the fact that there is a note on it "to be shown to the Minister," you never saw it.

FUNK: I would have had to initial it if I had seen it.

MR. DODD: Well, whether that is so or not, I am not concerned about right now. Instead, I want you to listen while I read an excerpt from it. If you would like to see the document you can have it, but I hardly think it is necessary. You recall that in that document one of your memoranda is referred to, is it not? Do you remember? Do you remember that Posse said:

> "It was pointed out that the Plenipotentiary for Economy is primarily concerned with introducing into the legislation for war finance the idea of financing war expenditures by anticipating future revenues, to be expected after the war."

FUNK: Yes.

MR. DODD: All right. That is all I have to ask about that document. We can move right along here.

Referring again to your own direct testimony, I understood you to tell the Tribunal that insofar as the war against Poland was concerned, you did not really know until some time in August that there was even a likelihood of war with Poland; some time in August you thought it would be settled by diplomatic means. Is that not so?

FUNK: In all probability not. For months there was a latent danger of war, but even in August one could see that it was imminent.

MR. DODD: Had you been planning or making economic plans for war with Poland for more than a year before the attack on Poland? You can answer that "yes" or "no."

FUNK: I do not know.

MR. DODD: You mean you did not know whether you had or not? What do you mean by that kind of an answer? Do you not remember?

FUNK: I do not remember.

MR. DODD: All right. Then I can help you. There is a Document, Number 3324-PS, which is already in evidence. You must remember it; it is Exhibit USA-661. That is a speech that you made. Is that not so? Do you not remember saying in it that you had been planning in secret for well over a year for the war on Poland? Do you remember that? Would you like to see the document?

FUNK: Yes, please.

MR. DODD: The sentence is here:

"Although all the economic and financial departments were utilized in the tasks and work of the Four Year Plan, under the leadership of Field Marshal Göring, the war economic preparation of Germany on another branch has also been advanced in secret for years . . ."

Do you remember that?

FUNK: Yes, now I know.

MR. DODD: You will notice it says here "for well over a year," and you went on to say this had been done under you. Is that true?

FUNK: Yes, that was the activity of the Plenipotentiary for civilian economy. I already explained that this morning.

MR. DODD: All right. Well, that is all right. I just wanted to get your answer . . .

FUNK: I did not speak of Poland.

MR. DODD: Well, that is the only war that was on when you made this speech. It was October 1939.

FUNK: The preparations were not made for a specific war, it was . . .

MR. DODD: All right.

FUNK: It was a general preparation.

MR. DODD: Now, actually you and Göring were even in a contest for power to some extent, were you not? Was the Göring door one of those that you were also trying to get in? You can answer that very simply. You told us you were trying to get in these various doors, but you would get up there and never get in. I now ask you if the Göring door was one of those.

FUNK: I do not believe that I was so presumptuous as to want to get Göring's post. That was far from being my intention. I had very little ambition at all.

MR. DODD: I did not say that you wanted to get his post, but you wanted to get some of his authority, did you not? Or do you not remember? Maybe that is the solution.

FUNK: No.

MR. DODD: Well, your man Posse was interrogated here by representatives of the Prosecution and the document is Number 3894-PS. He was asked these questions:

"Question: 'What was the nature of the conflict between the Plenipotentiary for Economy and the Four Year Plan?'

"Answer: 'The struggle for power.'

"Question: 'The struggle for power between Funk and Göring?'

"Answer: 'The struggle for power between Funk and Göring, between Funk and the Ministry for Agriculture and the Ministry of Communications.'

"Question: 'How was the struggle finally resolved?'

"Answer: 'Never. It was a struggle always continuing under the surface.'"

Then we move on:

"Question: 'Did Funk, who had very important powers as Minister of Economics and later as Reichsbank President and as Chief Plenipotentiary for Economy, actually exercise these powers?'

"Answer: 'Yes. But the powers of Göring were stronger.'

"Question: 'Nevertheless, Funk did exercise important powers?'

"Answer: 'Yes, as President of the Reichsbank, Minister of Economics, and Plenipotentiary for Economy.'"

Posse was your chief deputy, was he not?

FUNK: Yes, but Posse's position was somewhat apart. My deputy was Landfried, and in the Reichsbank, Puhl. They knew these things better than Herr Posse.

MR. DODD: Well, all right.

FUNK: They should know more about it than Posse.

MR. DODD: You do not think he really knew what he was talking about when he said you were in the struggle for power? Is that your answer?

FUNK: No.

MR. DODD: *[Turning to the Tribunal.]* That becomes Exhibit USA-843. We have not offered it up to now.

Now, Mr. Witness, I want to ask you about when you first heard of the impending attack on Russia. I understood you to tell the Tribunal that you heard about it some time—I think you said—in May. Is that right? Or June?

FUNK: When Rosenberg was appointed.

MR. DODD: Well, that is what we want to know. When Rosenberg, in April of 1941, was appointed, you knew then there was to

be an attack on Russia, did you not? But this morning I do not think you made that clear. Is that not right, Dr. Funk?

FUNK: Yes, I said that the reason given us for that appointment was that the Führer considered a war with Russia to be possible.

MR. DODD: Yes, but you know what you told the Tribunal this morning. You said that Lammers sent you notice of Rosenberg's appointment because of your interest in improving the trade relations with Russia. That is the answer you made this morning. Now, that was not so, was it?

FUNK: Yes, Lammers has said that here, too.

MR. DODD: I do not care what Lammers said. I am asking you now if it is not a fact that you were told by Lammers because you were to co-operate with Rosenberg in making ready for the occupation of those territories after the attack began. Now you can answer that very simply. Is that not true?

FUNK: No.

MR. DODD: Now, we will see. You know, on another occasion you have given another answer, by the way, I might say, parenthetically. Do you remember telling the interrogator that you first heard from Hess about the impending attack on Russia? Do you remember you gave that answer at one time as the source of your first knowledge? Do you remember telling us that?

FUNK: No.

MR. DODD: I'll tell you about that in a minute. We will stay now on this Rosenberg business.

There is a Document Number 1031-PS and it is dated 28 May 1941, which would be a little more than a month after the Rosenberg appointment: "Top secret notes; meeting with Reich Minister Funk." Do you know what you were talking about that day, about counterfeiting money for use in Russia and the Ukraine and the Caucasus? Do you remember it?

FUNK: No.

MR. DODD: You do not remember it? Well, you had better take a look at the Document. It is Number 1031-PS, which becomes Exhibit USA-844. Do you not remember the day that your Reichsbank Director Wilhelm said it should not appear that you were counterfeiting so-called ruble bills for use in the occupied countries? Rosenberg was at that meeting. It is a very short memorandum. Have you read it? Oh, it is on Page 4, I think, of the document that you have; I am sorry. Do you find it? It starts out: "In the Ukraine and the Caucasus, however, it would become

necessary to maintain the present currency, the ruble . . ." and so on. You were talking about money problems in the territory that you expected to occupy, and that was, well, about a month before the attack and about a month after Rosenberg's appointment, was it not? Can you not give me an answer?

FUNK: I have not found the passage yet. Yes, if these countries were conquered, it was necessary to deal with these questions.

MR. DODD: The point is that certainly by that time you knew about the impending attack on the countries that had to be conquered, did you not?

FUNK: I knew nothing of an attack. I only knew of an imminent danger of war.

MR. DODD: Well, all right, you have it your way. The important thing is that you were talking about using money in the Ukraine and in the Caucasus, and it happened about a month later.

FUNK: Yes.

MR. DODD: All right. There are quite a few questions I want to ask. I would like to close this examination before the adjournment time is due. Do you have anything you want to say to that? I only offered to show you that you had knowledge about the impending attack. You knew that something was going to happen in the East. That is all I wanted to ask. I think you will agree with that, will you not?

FUNK: Yes.

MR. DODD: All right.

FUNK: Since the appointment of Rosenberg—and I explained that quite clearly this morning—I knew that a war with Russia was threatening.

MR. DODD: We are all in agreement. We do not need to go further. I understood you to say this morning that you did not know. That is all right. I misunderstood you then. I now understand you to say that you did know it.

FUNK: I said quite clearly this morning that I was informed that the Führer was expecting a war with Russia, but I am not sure about this document, as to who has written it.

MR. DODD: Well, I do not know either. I can simply tell you that it was captured, among other documents, from Rosenberg's files. I cannot tell you anything more about it. I think we can talk about something else, if you will permit me. I really do not think there is any need to go on with it.

FUNK: Yes, but it is important insofar as these things about the ruble have been attributed to me.

MR. DODD: I will say it is, too.

FUNK: It says here that I said that the use of the Reichskreditkassenscheine and the determining of the rate of exchange involved considerable danger. In other words, I was very doubtful in regard to the proposals made in this respect.

MR. DODD: All right. I am glad to have your observations about it. Now, I want to talk to you a little bit about when you took over the Reichsbank. Posse was your principal deputy in your Ministry of Economics, was he not?

FUNK: Landfried was my main deputy.

MR. DODD: And by the way, he was at the same meeting that we have just been talking about. Who was your principal assistant in the Reichsbank?

FUNK: Puhl.

MR. DODD: He was a holdover from the Schacht days, was he not?

FUNK: Yes.

MR. DODD: Did you induce him to remain? Did you ask him to remain?

FUNK: No.

MR. DODD: You said that you selected your personnel. That is what you told the Tribunal this morning.

FUNK: No. Puhl remained and also Kretschmann and Wilhelm.

MR. DODD: I am not interested in going through your roster of personnel. I am only asking—and I will tell you the purpose. Puhl was a reliable banking man, was he not? He was well known in the international banking circles. He had been offered a position in the Chase Bank in New York at one time, did you know that?

FUNK: No, I did not know that.

MR. DODD: Well, it is true. In any event, he was quite a man, and he is a reliable man, is he not?

FUNK: Yes.

MR. DODD: You asked for him as a witness, did you not?

FUNK: Yes.

MR. DODD: And you wanted him to come here because you believe him and you know he . . .

FUNK: Yes.

MR. DODD: Now, I want to talk a little bit about the gold in the Reichsbank. How much gold did you have on hand at the end of the year 1941, roughly? Do not give me a long story about it,

because I am not too much interested. I am merely trying to find out if you were short on gold in 1941.

FUNK: The gold reserve which I took over amounted to about 500 million Reichsmark when I received the post of Schacht.

MR. DODD: Well, all right.

FUNK: It was increased in any substantial manner only by the Belgian gold, as far as I know.

MR. DODD: That is really—it is interesting to hear all about it, but I have another purpose in mind. From whence did you obtain gold after you took over? Where did you get any new gold reserves from?

FUNK: Only by changing foreign currency into gold, and then, after I took over the post, we got in addition the gold reserve of the Czech National Bank. But we mainly increased our reserve through the Belgian gold.

MR. DODD: All right. Now, of course, gold became very important to you as a matter of payment in foreign exchange. You had to pay off in gold along in 1942 and 1943, did you not? Is that so?

FUNK: It was very difficult to pay in gold.

MR. DODD: I know it was.

FUNK: Because the countries with which we still had business relations introduced gold embargoes. Sweden refused to accept gold at all. Only in Switzerland could we still do business through changing gold into foreign currency.

MR. DODD: I think you have established that you had to use gold as foreign exchange in 1942 and 1943 and that is all I wanted to know. When did you start to do business with the SS, Mr. Funk?

FUNK: Business with the SS? I have never done that.

MR. DODD: Yes, sir, business with the SS. Are you sure about that? I want you to take this very seriously. It is about the end of your examination, and it is very important to you. I ask you again, when did you start to do business with the SS?

FUNK: I never started business with the SS. I can only repeat what I said in the preliminary interrogation. Puhl one day informed me that a deposit had been received from the SS. First I assumed that it was a regular deposit, that is, a deposit which remained locked and which was of no further concern to us, but then Puhl told me later that these deposits of the SS should be used by the Reichsbank. I assumed they consisted of gold coins and foreign currency, but principally gold coins, which every German citizen had had to turn in as it was, and which were taken from inmates

of concentration camps and turned over to the Reichsbank. Valuables which had been taken from the inmates of concentration camps did not go to the Reichsbank but, as we have several times heard here, to the Reich Minister of Finance, that is...

MR. DODD: Just a minute. Were you in the habit of having gold teeth deposited in the Reichsbank?

FUNK: No.

MR. DODD: But you did have it from the SS, did you not?

FUNK: I do not know.

MR. DODD: You do not know?

Well, now, if Your Honor please, we have a very brief film, and I think we can show it before we adjourn, and I would like to show it to the witness before I examine him further on this gold business in the Reichsbank. It is a picture that was taken by the Allied Forces when they entered the Reichsbank, and it will show gold teeth and bridges and so on in their vaults.

FUNK: I know nothing about it.

MR. DODD: I think perhaps before I show the film I would like —I think I can do it in the time; I do want to complete this this afternoon—to read you an affidavit from this man Puhl who, you told me a few minutes ago, was a credible, well-informed man and whom you called as a witness. This affidavit is dated 3 May 1946.

DR. SAUTER: Mr. President, I protest against the reading of this affidavit by Herr Puhl. This affidavit most probably—I'm not sure—was taken here in Nuremberg. We do not know its contents. The Prosecution surprises us today with an affidavit of which we know nothing, and within ten minutes a dozen documents are thrown at us, of which the Prosecution asserts they are only short documents, whereas, for instance, one affidavit among them contains twelve pages, I believe. It is quite impossible for us, in the course of the extreme speed at which this examination is taking place, to follow these statements and these documents. Therefore I have to protest against the use of an affidavit of that kind at this moment.

MR. DODD: Well, this affidavit was taken at Baden Baden, Germany, on the 3rd day of May. We have been trying for a long time to put this part of this case together, and we have finally succeeded. Certainly we did not turn it over to Dr. Sauter, because we wanted to use it for just the purposes that I am trying to put it to now. And it is an affidavit of his assistant Puhl, whom he called as a witness and from whom he expects to have an interrogatory. It has to do with a very important part in this case. I might say that if we are permitted to use it, certainly Dr. Sauter will have a chance

to re-examine on it and he will have all night to study it if he would like to look it over.

THE PRESIDENT: Mr. Dodd, are you wanting to cross-examine the witness about this document?

MR. DODD: Yes, I want to read it to him and I want to ask him a couple of questions about it. I want him to know it because it is the basis for two or three questions of cross-examination, and to impeach him for statements he has already made about the gold.

THE PRESIDENT: You may do that. But Dr. Sauter, of course, will be able, if he wishes to do so, to apply afterwards that the witness should be produced for cross-examination. And he will have time in which he can consider the affidavit and make any comments that he wants to about it.

MR. DODD: Very well, Your Honor.

DR. SAUTER: Mr. President, may I make just one statement? Today a case occurred where the Prosecution protested against the fact that a document was used of which the Prosecution had not previously received an English translation. The representative of the Prosecution told me he did not understand German, and therefore the document had to be translated. I am of the opinion that the Defense should get the same right as the Prosecution.

If one English document after the other is thrown at me without my having the slightest idea of the contents, then I cannot answer them. Difficulties are constantly increasing. For instance, I have received documents here which contain 12 pages. One sentence is read out of such a document. The defendant is not given time to read even one single further paragraph. I myself am not given time. And in spite of that it is expected that the defendant immediately explains one single sentence taken out of the context, without having the possibility of examining the document. That, in my opinion, is asking too much.

THE PRESIDENT: Dr. Sauter, you had a translation in German of nearly every document, if not every document. And you have also been given every opportunity to consider documents when they have been translated into German. And that opportunity will be given to you hereafter and if there are any documents which are being used in cross-examination now which are not in German, they will be translated into German, and you will have them then. But once the witness is under cross-examination, the documents may be used. If you want to re-examine upon the documents after you have them in German, you will be able to do so.

DR. SAUTER: Mr. President, we Defense Counsel also desire to further the proceedings and not to delay them. But it does not help

me at all if, in a week or two, when I shall finally have been able to examine the documents thrown today on the table, I must turn to you, Mr. President, with the request to be permitted to question the witness again. We are glad once we are through with the examination of the witnesses. But we simply cannot follow Mr. Dodd's method. I cannot follow, and the defendant cannot either. One cannot expect the defendant to explain an isolated sentence taken out of the context, if he had no chance to examine the document as a whole.

THE PRESIDENT: Mr. Dodd.

MR. DODD: May I proceed to examine on the document?

THE PRESIDENT: Mr. Dodd, have you got any objection to Dr. Sauter's seeing the document?

MR. DODD: Yes, indeed I have. I think it would be a new rule. Ever since this Defense opened, we have presented and confronted documents for the purpose of impeaching the credibility of various witnesses, and used these documents, and it goes to the very foundation of cross-examination. If we have to turn such documents over to the Defense before we cross-examine, the whole purpose of cross-examination is gone.

THE PRESIDENT: Mr. Dodd, if you are putting the document in and putting it to the witness as a document, then his counsel is entitled, I should have thought, to have it at the same moment.

MR. DODD: We are perfectly willing to give him a German copy right now. It is here for him, if he wants to have it, and we were ready with it when we came in the courtroom.

THE PRESIDENT: In German?

MR. DODD: Yes, Mr. President.

THE PRESIDENT: I think the best thing will be for us to adjourn now, and then you will hand to Dr. Sauter when you use the document a translation of it in German.

MR. DODD: Yes; tomorrow morning, when we use it.

THE PRESIDENT: When you use it.

MR. DODD: Very well, Sir.

[The Tribunal adjourned until 7 May 1946 at 1000 hours.]

ONE HUNDRED AND TWENTY-THIRD DAY

Tuesday, 7 May 1946

Morning Session

[The Defendant Funk resumed the stand.]

MR. DODD: Witness, you had a conference with Dr. Sauter last night after we recessed Court, did you not, for about an hour?

FUNK: Yes.

MR. DODD: Now we were talking yesterday, when the Tribunal rose, about the gold deposits in the Reichsbank, and I had asked you when you started to do business with the SS, and as I recall, you said you did not do any business with the SS. And then we went along a little further and you did say that the SS did deposit some materials, some property belonging to people in concentration camps. Do I properly understand your testimony to have been, in substance, as I have stated it?

FUNK: No. I said that Herr Puhl—I do not remember in what year—told me one day that a gold deposit had arrived from the SS and he also told me—and he said it somewhat ironically—it would be better that we should not try to ascertain what this deposit was. As I said yesterday, it was impossible in any case to ascertain what was deposited. When something was deposited, the Reichsbank had no right to look into it to see of what it consisted. Only later, when Herr Puhl made another report to me, did I realize that when he used the word "deposit" it was a wrong term; it was not a deposit but it was a delivery of gold. There is of course a great difference. I personally assumed that it concerned a gold deposit, that this gold consisted of gold coins or other foreign currency or small bars of gold or something similar, which had been brought in from the inmates of the concentration camps—everybody in Germany had to hand these things over—and that it was being handed to the Reichsbank, which would use it. Since you mentioned this matter, I remember another fact of which I was not conscious until now. I was asked about it during my interrogation, and during this interrogation I could not say "yes" to it because at that time I did not remember it. I was asked during my interrogation whether I had the agreement of the Reichsführer that the gold which was delivered to the Reichsbank should be utilized by the Reichsbank. I said I did not remember. However, if Herr Puhl makes such a statement

under oath, I will not and cannot dispute it. It is evident that if gold were delivered which should come to the Reichsbank, then the Reichsbank had the right to utilize such gold. I certainly never spoke more than twice or at most three times to Herr Puhl about this matter. What these deposits or these deliveries consisted of and what was done with these deliveries, how they were utilized, I do not know. Herr Puhl never informed me about that either.

MR. DODD: Well now, let us see. You were not ordinarily in the habit, in the Reichsbank, of accepting jewels, monocles, spectacles, watches, cigarette cases, pearls, diamonds, gold dentures, were you? You ordinarily accepted that sort of material for deposit in your bank?

FUNK: No; there could be no question, in my opinion, that the bank had no right to do that, because these things were supposed to be delivered to an entirely different place. If I am correctly informed about the legal position, these things were supposed to be delivered to the Reich Office for Precious Metals and not to the Reichsbank. Diamonds, jewels, and precious stones were not the concern of the Reichsbank because it was not a place of sale for these things. And in my opinion, if the Reichsbank did that, then it was unlawful.

MR. DODD: That is exactly right.

FUNK: If that happened, then the Reichsbank committed an illegal act. The Reichsbank was not authorized to do that.

MR. DODD: And is it your statement that if it was done you did not know anything about it?

FUNK: No.

MR. DODD: You did not know?

FUNK: No.

MR. DODD: You were frequently in the vaults of the Reichsbank, were you not? As a matter of fact you liked to take visitors through there. I say, you were frequently in the vaults of the bank yourself?

FUNK: Yes, I was, where the gold bars were kept.

MR. DODD: I will come to the gold bars in a minute. I just want to establish that you were in the vaults frequently, and your answer, as I understand it, is "yes" that you were?

FUNK: It was the usual thing if someone came to visit us, particularly foreign visitors, to show them the rooms where the gold was kept and we always showed them the gold bars and there was always the usual joke as to whether one could lift a gold bar or not. But I never saw anything else there except gold bars.

MR. DODD: How heavy were these gold bars that you had in the vaults?

FUNK: They were the usual gold bars which were used in commerce between banks. I think they varied in weight. I think the gold bars weighed about 20 kilograms. Of course, you can figure it out. If one . . .

MR. DODD: That is all right. That is satisfactory. When you were in the vaults you never saw any of these materials that I mentioned a few minutes ago—jewels, cigarette cases, watches, and all that business?

FUNK: Never. I was in the vaults at the most four or five times and then only to show this very interesting spectacle to visitors.

MR. DODD: Only four or five times from 1941 to 1945?

FUNK: I assume so. It was not more often. I only went down there with visitors, particularly foreign visitors.

MR. DODD: Are you telling the Tribunal that as head of the Reichsbank you never made an inspection, so to speak, of the vaults, never took a look at the collateral? Did you not ever make an inspection before you made your certifications as to what was on hand? Certainly every responsible banker does that regularly, does he not? What is your answer?

FUNK: No, never. The business of the Reichsbank was not conducted by the President. It was conducted by the Directorate. I never bothered about individual transactions, not even gold transactions, or even about slight variations in the individual gold reserves, *et cetera*. If large deliveries of gold were expected, the Directorate reported to me. The Directorate conducted the business, and I believe the detailed transactions were probably known only to the director responsible for that particular department.

MR. DODD: Now, did you ever do any business with pawnshops?

FUNK: With what?

MR. DODD: Pawnshops. Do you not know what a pawnshop is? There must be a German word for that.

FUNK: Pfandleihe.

MR. DODD: Whatever it is, you know what they are, do you not?

FUNK: Where you pawn something.

MR. DODD: Yes.

FUNK: No, I never did any . . .

MR. DODD: All right, we will get to that a little later too. Right now, since you do not seem to recall that you ever had any or saw any such materials as I have described in your vaults, I ask that we

have an opportunity to show you a film which was taken of some materials in your vaults when the Allied Forces arrived there.

[Turning to the President.] I would ask, Mr. President, that the defendant be permitted to come down, where he can watch the film, so that his memory will be properly refreshed.

THE PRESIDENT: Yes, you may have him brought down.

[Moving pictures were then shown.]

THE PRESIDENT: Mr. Dodd, at some stage, I take it, you will offer evidence as to where that film was made.

MR. DODD: Yes, I will. There will be an affidavit as to the circumstances under which the film was made, who was present, and why; but, for the information of the Tribunal, it was taken in Frankfurt when the Allied Forces captured that city and went into the Reichsbank vaults.

[Turning to the defendant.] Now, Witness, having seen these pictures of materials that were found in your Reichsbank vaults a year ago, or a little earlier than a year ago, you now recall that you did have such material on hand over a period of 4 or 5 years, 3 or 4 years, 3 years—I think actually a little longer than 3 years?

FUNK: I have never seen anything of this sort. I also have the impression that a large part of these things which were shown in the film came from deposits, because people, thousands of them, had locked deposits which they delivered to the Reichsbank, in which they put their jewels and other valuables, as we have just seen. Probably some were hidden valuables, which they should have given up, such as foreign money, foreign exchange, gold coins, *et cetera*. As far as I know we had thousands of closed deposits into which the Reichsbank could not look. I never saw a single item such as these shown in the film, and I cannot imagine where these things came from, to whom they belonged, and to what use they were put.

MR. DODD: Well, that is an interesting answer. I asked you yesterday, and I ask you again now, did you ever hear of anybody depositing his gold dentures in a bank for safekeeping? *[There was no response.]*

You saw that film, and you saw the gold bridgework, or mouth-plates, did you not, and the other dental work? Certainly nobody ever deposited that with a bank. Is that not a fact?

FUNK: As far as the teeth are concerned, this is a special case. Where these teeth came from I do not know. It was not reported to me, nor do I know what was done with those teeth. I am convinced that items of this sort, when they were delivered to the Reichsbank, had to be turned over to the Office for Precious Metals, for the

Reichsbank was not a place where gold was worked. Neither do I know whether the Reichsbank even had the technical facilities to work this metal. I do not know about that.

MR. DODD: And not only did people not deposit gold teeth, but they never deposited eyeglass rims, did they, such as you saw in the picture?

FUNK: That is right. These things are, of course, no regular deposits. That goes without saying.

MR. DODD: And you saw there were some objects that obviously were in the process of being melted down. Practically the last scene in that film showed something that looked as if it had been in the process of being melted, did it not? You saw it?

Well, will you answer me, please, "yes" or "no"? Did you see it?

FUNK: I cannot say that exactly. I do not know whether they were melting it down. I have no knowledge of these technical matters. To be sure, now I see quite clearly what was not known to me until now, that the Reichsbank did the technical work of melting down gold articles.

MR. DODD: Well, now, let us see what your assistant, Mr. Puhl, says about that, the man who you told us yesterday was a credible gentleman, and whom you asked the Tribunal to call as a witness on your behalf. I am holding in my hand an affidavit executed by him on the 3rd day of May 1946 at Baden Baden, Germany.

"Emil Puhl, being duly sworn, deposes and says:

"1. My name is Emil Puhl. I was born on 28 August 1889 in Berlin, Germany. I was appointed a member of the Board of Directors of the Reichsbank in 1935 and Vice President of the Reichsbank in 1939, and served in these positions continuously until the surrender of Germany.

"2. In the summer of 1942 Walter Funk, President of the Reichsbank and Reich Minister of Economics, had a conversation with me and later with Mr. Friedrich Wilhelm, who was a member of the Board of Directors of the Reichsbank. Funk told me that he had arranged with Reichsführer Himmler to have the Reichsbank receive in safe custody gold and jewels for the SS. Funk directed that I should work out the arrangements with Pohl, who, as head of the economic section of the SS, administered the economic side of the concentration camps.

"3. I asked Funk what the source was of the gold, jewels, banknotes, and other articles to be delivered by the SS. Funk replied that it was confiscated property from the Eastern Occupied Territories, and that I should ask no further

questions. I protested against the Reichsbank handling this material. Funk stated that we were to go ahead with the arrangements for handling the material, and that we were to keep the matter absolutely secret.

"4. I then made the necessary arrangements with one of the responsible officials in charge of the cash and safes departments for receiving the material, and reported the matter to the Board of Directors of the Reichsbank at its next meeting. On the same day Pohl, of the economic section of the SS, telephoned me and asked if I had been advised of the matter. I said I would not discuss it by telephone. He then came to see me and reported that the SS had some jewelry for delivery to the Reichsbank for safekeeping. I arranged with him for delivery and from then on deliveries were made from time to time, from August 1942 throughout the following years.

"5. The material deposited by the SS included jewelry, watches, eyeglass frames, dental gold, and other gold articles in great abundance, taken by the SS from Jews, concentration camp victims, and other persons. This was brought to our knowledge by SS personnel who attempted to convert this material into cash and who were helped in this by the Reichsbank personnel with Funk's approval and knowledge. In addition to jewels and gold and other such items, the SS also delivered bank notes, foreign currency, and securities to the Reichsbank to be handled by the usual legal procedure established for such items. As far as the jewelry and gold were concerned, Funk told me that Himmler and Von Krosigk, the Reich Minister of Finance, had reached an agreement according to which the gold and similar articles were on deposit for the account of the State and that the proceeds resulting from the sale thereof would be credited to the Reich Treasury.

"6. From time to time, in the course of my duties, I visited the vaults of the Reichsbank and observed what was in storage. Funk also visited the vaults from time to time.

"7. The Golddiskontobank, at the direction of Funk, also established a revolving fund which finally reached 10 to 12 million Reichsmark for the use of the economic section of the SS to finance production of materials by concentration camp labor in factories run by the SS.

"I am conversant with the English language and declare that the statements made herein are true to the best of my knowledge and belief."

Document Number 3944-PS; it is signed by Emil Puhl and duly witnessed.

Mr. President, I would like to offer this affidavit as Exhibit USA-846 and the film as Exhibit USA-845.

[Turning to the defendant.] Now, Witness, having heard this affidavit from your close associate and your brother director of the Board of Directors of the Reichsbank, and the man who, you admitted yesterday was a credible and truthful man, what do you now say to this Tribunal about your knowledge of what was going on between your bank and the SS?

FUNK: I declare that this affidavit by Herr Puhl is not true. I spoke to Herr Puhl about the entire matter of these gold deposits, as I have repeatedly stated, three times at most, but I believe it was only twice. I never exchanged a word with Herr Puhl regarding precious stones and jewelry. It is incredible to me that a man who most certainly also carried out certain functions in his agreements with the SS—that is, with Herr Pohl—now tries to put the blame on me. On no account will I take this responsibility and I request that Herr Puhl be called here, and that in my presence he may declare in all detail when, where, and how he has spoken to me about these different items, and to what extent I told him what to do.

I repeat my statement that I knew nothing about jewelry and other deliveries from concentration camps, and that I have never spoken to Herr Puhl about these things. I can only say again what I said at the beginning, that Herr Puhl once told me that a gold deposit had arrived from the SS. I remember it now, it had escaped me as I did not pay too much attention to the entire matter. I remember that, urged by him, I spoke to the Reichsführer about whether the Reichsbank could utilize these items. The Reichsführer said, "Yes." But at no time did I speak to the Reichsführer about jewelry and precious stones and watches and such things. I spoke only of gold.

Concerning what Puhl states about a financing scheme—I believe that goes back a number of years—I know Herr Puhl came to me one day and said that he was asked to give a credit for certain factories of the SS and somebody was negotiating with him about the matter. I asked him, "Is this credit secure? Do we get interest?" He said, "Yes, up till now they have had a credit from the Dresdner Bank and it must now be repaid." I said, "Very well, do that." After that I never heard anything more about this matter. It is news to me that this credit was so large, that it was made by the Golddiskontobank. I do not remember it, but it is entirely possible. However, I never heard any more about this credit, which Herr Puhl had given to certain factories. He always spoke about factories, about businesses; it was a bank credit which had previously been given by a private bank. I remember I asked him once, "Has this credit been repaid?" That was some considerable time later. He

said, "No, it has not been repaid yet." That is all I know about these matters.

MR. DODD: All right. Now, what do you know about this—one part of the affidavit you have not covered—what do you know about the last part that says you established a revolving fund for the SS for the building of factories near the concentration camps? Do you remember that? I read it to you. Puhl says, "The Reichsbank, at the direction of Funk, established a revolving fund which finally reached 10 to 12 million Reichsmark for the use of the economic section of the SS to finance production of materials by concentration camp labor in factories run by the SS." Do you admit that you did that?

FUNK: Yes, that is what I just mentioned; that Herr Puhl told me one day, I believe in 1939 or 1940, that some gentlemen from the economic section of the SS had spoken to him regarding a credit, which until that time had been granted by the Dresdner Bank and which they would now like to have from the Reichsbank. I asked Herr Puhl, "Will we get interest; is the credit secure?" He said, "Yes." So I said, "Give them this credit," and later on I said just what I mentioned above. That is all I know about the matter. I know nothing more.

MR. DODD: Now, you also got a fee for handling these materials that you saw in the film, did you not, from the SS? The bank was paid for carrying on its part of this program?

FUNK: I did not understand that.

MR. DODD: I say, is it not a fact that you received payment from the SS over this period of more than 3 years for handling these materials which they turned over to you?

FUNK: I do not know about that.

MR. DODD: Well, you would know, would you not, as President of the bank, if you did receive payment? How could you help knowing?

FUNK: These were probably such small payments that no one ever reported them to me. I do not know anything about any payment from the SS.

MR. DODD: What would you say if I tell you that Herr Puhl said that the bank did receive payment during these years, and that there were altogether some 77 shipments of materials such as you saw here this morning? Do you say that is untrue, or do you agree with it?

FUNK: That might be quite true, but I was never informed about these things. I know nothing about it.

MR. DODD: Is it conceivable that you, as President of the Reichsbank, could not know about 77 such shipments and about a transaction that you were being paid to handle? Do you think that is a likely story?

FUNK: If the Board of Directors did not report to me about these things, I cannot have known about them, and I declare again quite definitely that I was not informed about these details. On one occasion I was told about a gold deposit of the SS which was brought to us. Later on it transpired that it was a delivery from the SS. And then I knew about this credit transaction. That is all I know about these matters.

MR. DODD: Now, let me tell you something that may help you a little bit. As a matter of fact, your bank sent memoranda to people concerning this material from time to time, and I think you know about it, do you not? You made up memoranda stating what you had on hand and whom you were transferring it to. Are you familiar with any such memoranda?

FUNK: No.

MR. DODD: Well, then you had better take a look at Document Number 3948-PS, Exhibit USA-847, and see if it refreshes your memory. That is 3948-PS.

[The document was handed to the defendant.]

Now, this document is a memorandum apparently addressed to the Municipal Pawn Brokerage in Berlin, and it is dated 15 September 1942. Now, I am not going to read all of it, although it is a very interesting document, but as you can see, the memorandum says, "We submit to you the following valuables with the request for the best possible utilization." Then you list 247 platinum and silver rings, 154 gold watches, 207 earrings, 1,601 gold earrings, 13 brooches with stones—I am just skipping through; I am not reading all of them—324 silver wrist watches, 12 silver candle sticks, goblets, spoons, forks, and knives, and then, if you follow down here quite a way, diverse pieces of jewelry and watch casings, 187 pearls, four stones said to be diamonds. And that is signed "Deutsche Reichsbank, Hauptkasse" and the signature is illegible. Perhaps, if you look at the original, you might tell us who signed it.

FUNK: No, I do not know who signed it.

MR. DODD: You have the original?

FUNK: I do not know.

MR. DODD: Well, look at the signature there and see if you recognize it as the signature of one of your workers.

FUNK: It says—somebody from our cashier's office signed it. I do not know the signature.

MR. DODD: Somebody from your bank, was it not?

FUNK: Yes, from the cashier's department. I do not know the signature.

MR. DODD: Do you want this Tribunal to believe that employees and people in your bank were sending lists out to municipal pawn brokers without it ever coming to your attention?

FUNK: I know nothing at all about these events. They can only be explained in that things were apparently delivered to the Reichsbank which it was not supposed to keep. That is obvious.

MR. DODD: Well, I would also like you to look at Document Number 3949-PS, which is dated 4 days later, 19 September 1942, Exhibit USA-848. Now, you will see this is a memorandum concerning the conversion of notes, gold, silver, and jewelry in favor of the Reich Minister of Finance, and it also says that it is "a partial statement of valuables received by our precious metals department." Again I think it is unnecessary to read it all. You can look at it and read it, but the last two paragraphs, after telling what the shipments contained as they arrived on 26 August 1942, say:

> "Before we remit the total proceeds, to date 1,184,345.59 Reichsmark to the Reichshauptkasse for the account of the Reich Minister of Finance, we beg to be informed under what reference number this amount and subsequent proceeds should be transferred.
>
> "It might further be of advantage to call the attention of the responsible office of the Reich Minister of Finance in good time to the amounts to be transferred from the Deutsche Reichsbank."

And again that is signed, "Deutsche Reichsbank, Hauptkasse," and there is a stamp on there that says, "Paid by check, Berlin, 27 October 1942, Hauptkasse."

FUNK: For this document, that is, this note to the Reich Minister of Finance, I believe I am able to give an explanation, and that is on the basis of testimony given here by witnesses who came from concentration camps. The witness Ohlendorf, if I remember correctly, and another one, have testified that the valuables which had been taken from the inmates of concentration camps had to be turned over and were delivered to the Reich Minister of Finance. Now, I assume that the technical procedure was that these things were first brought to the Reichsbank by mistake. The Reichsbank, however—and I keep repeating it—could do nothing with the pearls, jewelry, and similar items which are mentioned here, and therefore turned over these items to the Reich Minister of Finance or they were used for the account of the Reich Minister of Finance. That is

apparent from this document. In other words, this merely is a statement of account sent by the Reichsbank for the Reich Minister of Finance. That is, I believe, the meaning of this document.

MR. DODD: Well, indeed, you did hear Ohlendorf say that these unfortunate people who were exterminated in these camps had their possessions turned over to the Reich Minister of Finance. I believe he testified to that effect here. Now, you also . . .

FUNK: That is what I heard here. These things were news to me. However, I did not know that the Reichsbank . . .

MR. DODD: You have told us that twice already.

FUNK: . . . that the Reichsbank dealt with these matters in such detail.

MR. DODD: Are you telling us that you did not know they dealt with them in such detail, or that you did not know they dealt with them at all? I think that is important. What is your answer, that you did not know they went into them in such detail or that you did not know anything about it?

FUNK: I personally had nothing to do with it at all.

MR. DODD: Did you know about it?

FUNK: No.

MR. DODD: You never heard of it?

FUNK: I did not know at all that any jewelry, watches, cigarette cases, and so forth were delivered to the Reichsbank; that is news to me.

MR. DODD: Did you know that anything came from concentration camps to the Reichsbank? Anything at all?

FUNK: Yes, the gold, of course. I already said that.

MR. DODD: Gold teeth?

FUNK: I have said that—no.

MR. DODD: What gold from the concentration camps?

FUNK: The gold about which Herr Puhl had reported to me, and I assumed that these were coins and other gold which had to be deposited at the Reichsbank anyway, and which the Reichsbank could utilize according to the legal regulations. Otherwise, I know nothing about it.

MR. DODD: Just what did Himmler say to you and what did you say to Himmler when you had this conversation, as you tell us, about this gold from the concentration camp victims? I think the Tribunal might be interested in that conversation. What did he say, and what did you say, and where was the conversation held?

FUNK: I do not remember any more where the conversation was held. I saw Himmler very rarely, perhaps once or twice. I assume that it was on the occasion of a visit in the field quarters of Lammers, where Himmler's field quarters were also located. It must have been there. On that occasion we spoke very, very briefly about that.

MR. DODD: Wait just a minute. Will you also tell us when it was?

FUNK: Possibly during the year 1943; it might have been 1944, I do not remember.

MR. DODD: All right.

FUNK: I attached no importance whatsoever to this matter. In the course of the conversation I put the question, "There is a gold deposit from you, from the SS, which we have at the Reichsbank. The members of the board of directors have asked me whether the Reichsbank can utilize that." And he said, "Yes." I did not say a word about jewelry or things of that kind or gold teeth or anything of that sort. The entire conversation referred only very briefly to this thing.

MR. DODD: Do you mean to tell us that an arrangement was made with your bank independently of you and Himmler, but by somebody in the SS and somebody in your bank—that you were not the original person who arranged the matter?

FUNK: That is right. It was not I.

MR. DODD: Who in your bank made that arrangement?

FUNK: Possibly it was Herr Puhl or maybe somebody else from the Reichsbank Directorate who made the arrangement with one of the gentlemen of the economic section in the SS. And I was only informed of it by Herr Puhl very briefly.

MR. DODD: Did you know Herr Pohl, P-o-h-l, of the SS?

FUNK: I imagine it was he. Herr Pohl never spoke to me about it.

MR. DODD: You do not know the man?

FUNK: I must certainly have seen him at some time, but Herr Pohl never spoke to me about these matters. I never spoke to him.

MR. DODD: Where did you see him, in the bank?

FUNK: Yes, I saw him once in the bank when he spoke to Puhl and other gentlemen of the Reichsbank Directorate during a luncheon. I walked through the room and I saw him sitting there, but I personally never spoke with Herr Pohl about these questions. This is all news to me, this entire matter.

MR. DODD: Well, do you recall the testimony of the witness Hoess in this courtroom not so long ago? You remember the man? He sat where you are sitting now. He said that he exterminated between 2½ and 3 million Jews and other people at Auschwitz. Now, before I ask you the next question I want you to recall that testimony and I will point something out for you about it that may help you. You recall that he said that Himmler sent for him in June 1941, and that Himmler told him that the final solution of the Jewish problem was at hand, and that he was to conduct these exterminations. Do you recall that he went back and looked over the facilities in one camp in Poland and found it was not big enough to kill the number of people involved and he had to construct gas chambers that would hold 2,000 people at a time, and so his extermination program could not have got under way until pretty late in 1941, and you observe that your assistant and credible friend Puhl says it was in 1942 that these shipments began to arrive from the SS?

FUNK: No, I know nothing about the date. I do not know when these things happened. I had nothing to do with them. It is all news to me that the Reichsbank was concerned with these things to this extent.

MR. DODD: Then I take it you want to stand on an absolute denial that at any time you had any knowledge of any kind about these transactions with the SS or their relationship to the victims of the concentration camps. After seeing this film, after hearing Puhl's affidavit, you absolutely deny any knowledge at all?

FUNK: Only as far as I have mentioned it here.

MR. DODD: I understand that; there was some deposit of gold made once, but no more than that. That is your statement. Let me ask you something, Mr. Funk . . .

FUNK: Yes; that these things happened consistently is all news to me.

MR. DODD: All right. You know you did on one occasion at least, and possibly two, break down and weep when you were being interrogated, you recall, and you did say you were a guilty man; and you gave an explanation of that yesterday. You remember those tears. I am just asking you now; I am sure you do. I am just trying to establish the basis here for another question. You remember that happened?

FUNK: Yes.

MR. DODD: And you said, "I am a guilty man." You told us yesterday it was because you were upset a little bit in the general situation. I am suggesting to you that is it not a fact that this

matter that we have been talking about since yesterday has been on your conscience all the time and that was really what is on your mind, and it has been a shadow on you ever since you have been in custody? And is it not about time that you told the whole story?

FUNK: I cannot tell more to the Tribunal than I have already said, that is the truth. Let Herr Puhl be responsible before God for what he put in the affidavit; I am responsible for what I state here. It is absolutely clear that Herr Puhl is now trying to put the blame on me and to exculpate himself. If he has done these things for years with the SS, it is his guilt and his responsibility. I have only spoken to him two or three times about these things, that is, about the things I have mentioned here.

MR. DODD: You are trying to put the blame on Puhl, are you not?

FUNK: No. He is blaming me and I repudiate that.

MR. DODD: The trouble is, there was blood on this gold, was there not, and you knew this since 1942?

FUNK: I did not understand.

MR. DODD: Well, I would like to ask you one or two questions about two short documents. It will take but a short time. You told the Tribunal yesterday that you had nothing to do with any looting of these occupied countries. Do you know what the Roges corporation was?

FUNK: Yes. I do not know in detail what they did. I know only that it was an organization which made official purchases for various Reich departments.

MR. DODD: This Roges corporation purchased on the black market in France with the surpluses from the occupation cost fund, did it not?

FUNK: I was against this type of purchases in the black market.

MR. DODD: I am not asking you whether you were for it or against it. I was simply asking you if it is not a fact that they did it.

FUNK: I do not know.

MR. DODD: All right. You had better take a look at Document Number 2263-PS, which is written by one of your associates, Dr. Landfried, whom you also asked for as a witness here and from whom you have an interrogatory. This is a letter dated 6 June 1942, addressed to the Chief of the OKW Administrative Office:

"In answer to my letter of 25 April 1942"—and so on—"100 million Reichsmark were put at my disposal from the Occupation Cost Fund by the OKW. This amount has already

been disposed of except for 10 million Reichsmark, since the demands of the Roges (Raw Material Trading Company), Berlin, for the acquisition of merchandise on the black market in France, were very heavy. In order not to permit a stoppage in the flow of purchases which are made in the interest of the prosecution of the war, further amounts from the occupation cost fund must be made available. According to information from Roges and from the economic department of the Military Commander in France, at least 30 million Reichsmark in French francs are needed every 10 days for such purchases.

"As, according to information received from Roges, an increase of purchases is to be expected, it will not be sufficient to make available the remaining 100 million Reichsmark in accordance with my letter of 25 April 1942, but over and above this, an additional amount of 100 million Reichsmark will be necessary."

It is very clear from that letter written by your associate Landfried that the Roges corporation, which was set up by your Ministry, was engaged in black market operations in France with money extorted from the French through excessive occupation costs, is it not?

FUNK: That the Roges made such purchases is true. These things have already been dealt with here in connection with the orders and directives which the Four Year Plan gave for these purchases on the black market. However, these are purchases which were arranged and approved by the state organization. What we especially fought against were the purchases without limits in the black market. I already mentioned yesterday that I finally succeeded in getting a directive from the Reich Marshal that all purchases in the black market were to be stopped because through these purchases naturally merchandise was withdrawn from the legal markets.

MR. DODD: You told us that yesterday. That was 1943. There was not much left in France on the black market or white market or any other kind of market by that time, was there? That country was pretty well stripped by that time, as is shown in the letters.

FUNK: In 1943 I believe a great deal was still coming from France. There was continuous production going on in France and it was considerable. The official French statistics show that even in 1943 large quantities of the total production were being diverted to Germany. These quantities were not a great deal less than in 1941 and '42.

MR. DODD: Well, in any event I also want you to talk a little bit about Russia, because I understood you to say yesterday you

did not have much to do with that. Schlotterer was your man who was assigned to work with Rosenberg, was he not?

FUNK: From the beginning I assigned Ministerial Director Dr. Schlotterer to Rosenberg, so that only one economic department, the competent department for the Minister for the Eastern Occupied Territories, would work in Russia, and not two.

DR. DODD: That is all I want to know. He was assigned. And he participated in the program of stripping Russia of machines, materials, and goods, which went on for some considerable period of time; you knew about it.

FUNK: No, that is not true. This man did not have this task. These transactions were handled by the Economic Department East which, I think, came under the Four Year Plan. As far as I know these transactions were not handled by Minister Rosenberg and certainly not by the Ministry of Economics.

MR. DODD: It is a different story on different occasions. I think the best way is to read your interrogation. On 19 October 1945 you were interrogated here in Nuremberg. You were asked this question:

"And part of the plan was to take machines, materials and goods out of Russia and bring them into Germany, was it not?"

And you answered:

"Yes, most certainly, but I did not participate in that. But in any case it was done."

The next question:

"Question: Yes, and you yourself participated in the discussions concerning these plans, and also your representative, Dr. Schlotterer?

"Answer: I myself did not participate.

"Question: But you gave the power to act for you in that connection to Dr. Schlotterer?

"Answer: Yes; Schlotterer represented me in economic questions in the Rosenberg Ministry."

FUNK: No, that is not true. This testimony is completely confused, because Schlotterer joined the Rosenberg Ministry. He became head of the economic department there. Also, this testimony is not true to this extent, since we certainly sent more machines into Russia than we took out of Russia. When our troops came to Russia everything had been destroyed, and in order to put the economy there in order, we had to send large quantities of machinery and other goods to Russia.

MR. DODD: Do you mean to say that you did not make these answers that I have just read to you when you were interrogated?

FUNK: Those answers are not correct.

MR. DODD: You know, it is very interesting that you told us yesterday that the answers to the questions put to you by Major Gans were incorrect. I posed another interrogation to you yesterday and you said that was incorrect. Now a third man has interrogated you, and you say that one is incorrect.

FUNK: No, I say what I said is wrong.

MR. DODD: Well, of course, that is what I am talking about.

FUNK: That is wrong.

MR. DODD: I will submit that interrogation in evidence; it is not in form to be submitted, but I would like to submit it a little later, with the Tribunal's permission.

THE PRESIDENT: You will inform us, when you do, as to the number and so on?

MR. DODD: Yes, I will. I have no further questions.

THE PRESIDENT: Do any of the other prosecutors wish to cross-examine?

STATE COUNSELLOR OF JUSTICE M. Y. RAGINSKY (Assistant Prosecutor for the U.S.S.R.): After Mr. Dodd's cross-examination I have a few supplementary questions to ask.

Defendant Funk, you testified yesterday that your Ministry at the time of the attack on the Soviet Union had very limited functions, and that you yourself were not a minister in the true sense of the word. In this connection I want to ask you a few questions regarding the structure of the Ministry of Economics. Tell me, are you familiar with the book by Hans Quecke, entitled, *The Reich Ministry of Economics*? Do you know about this book?

FUNK: No.

MR. COUNSELLOR RAGINSKY: You do not know? Are you familiar with the name of Hans Quecke?

FUNK: Hans Quecke?

MR. COUNSELLOR RAGINSKY: Yes. Hans Quecke. He was a counsellor in the Ministry of Economics.

FUNK: Quecke was a ministerial director in the Ministry of Economics.

MR. COUNSELLOR RAGINSKY: And he, of course, knew about the structure of the Ministry of Economics and about its functions. Am I right?

FUNK: Certainly. He must have known about that.

MR. COUNSELLOR RAGINSKY: I present this book in evidence to the Tribunal as Exhibit USSR-451, and you, Witness, will receive

a photostat copy of the section of this book in order that you can follow me. Please open it at Page 65, last paragraph. Have you found the passage in question?

FUNK: I have not found it yet. I can only see . . .

MR. COUNSELLOR RAGINSKY: Page 65, last paragraph of the page.

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: You have found it, yes?

FUNK: The structure of the Reich Ministry of Economics?

MR. COUNSELLOR RAGINSKY: It gives the structure of the Ministry of Economics as on 1 July 1941. Your permanent deputy was a certain Dr. Landfried. Is that the same Landfried whose testimony was presented by the Defense Counsel?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: I must ask you to follow the text:

"Landfried had under him a special department which was in charge of fundamental questions of supply of raw materials for the military economy."

Defendant Funk, I am asking you . . .

FUNK: Just a moment. Where is that?

MR. COUNSELLOR RAGINSKY: It is in Section 2, Part II. Have you found it?

FUNK: No, there is nothing here about war economy. I do not see anything about war economy. Auslands-Organisation . . .

MR. COUNSELLOR RAGINSKY: Part II, Subparagraph 2.

FUNK: It says nothing about war economy here.

MR. COUNSELLOR RAGINSKY: I shall read the entire paragraph into the record. We shall get down to the Auslands-Organisation in good time.

FUNK: This is a special section.

MR. COUNSELLOR RAGINSKY: Yes, a special section.

FUNK: Directly subordinate to the State Secretary here is Section S, Special Section, basic questions of the supply of raw materials, basic questions of war economy, basic questions of . . .

MR. COUNSELLOR RAGINSKY: It is precisely about this war economy that I wish to speak. He was also in charge of the fundamental market policy and of economic questions in the border territories. The ministry consisted of five main departments. Am I right?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: The third main department was headed by Schmeer? Am I right?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: You had a special department entitled, "Elimination of the Jews from Economic Life." That was in 1941? Am I right?

FUNK: Yes; that was the time we dealt with these matters; in that department the regulations for carrying out these orders were dealt with. We discussed them at length yesterday.

MR. COUNSELLOR RAGINSKY: Defendant Funk, I ask you to follow the text: "The fourth main department was headed by Ministerialdirektor Dr. Klucki, and this department was in charge of banks, currency, credit and insurance matters." Is that a fact?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: I presume that you must know the structure of your own ministry and we need not waste time in further discussions. You must know that the fifth main department was headed by State Secretary Von Jagwitz. This department was in charge of special economic problems in different countries. The fifth section of this department attended to questions of military economy connected with foreign economy. Am I right?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: The same department dealt with special foreign payments as well as with the blocked deposits . . .

FUNK: I do not understand. This is the Foreign Trade Department. They merely dealt with the technical carrying-out of the foreign exports.

MR. COUNSELLOR RAGINSKY: Take the section dealing with foreign currencies. Have you found the passage?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: You have found that it deals with blocked deposits. Were you at all connected with the collaboration existing between your ministry and the Office of Foreign Affairs of the NSDAP? Is my question clear to you?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: And your ministry had a special section dealing with these matters?

FUNK: Only this office. That can be explained in this manner. The Under State Secretary, Von Jagwitz, who was the head of this

main department, was also active in the Auslands-Organisation. He had created a liaison office for himself in the ministry to deal with economic questions which came to the ministry—to this department, which was the Export Department, the Foreign Department—via the Auslands-Organisation. This concerned Von Jagwitz only, who at the same time was active in the Auslands-Organisation and maintained a liaison office.

MR. COUNSELLOR RAGINSKY: Then we are to understand that the Foreign Political Department had special economic functions abroad, and that it co-operated with your ministry in this sense? Is that correct?

FUNK: No, that is not correct.

MR. COUNSELLOR RAGINSKY: Then why did this department exist?

FUNK: It was not a department, but the Under State Secretary, Von Jagwitz, was at the same time active in the Auslands-Organisation. I do not know in what position. He was active in the Auslands-Organisation before he was taken into the ministry by the Reich Marshal. Then he himself created a kind of liaison office between his department and the Auslands-Organisation. That is, frequently economists from abroad belonging to the Auslands-Organisation of the NSDAP came to Berlin, and these people came to Under State Secretary Von Jagwitz and discussed their business with him and they reported to him about their experience and knowledge of foreign countries. I do not know any more about it.

MR. COUNSELLOR RAGINSKY: You wish to convince us that this was the personal initiative of Von Jagwitz, and that you as minister knew nothing at all about it?

FUNK: Certainly, I knew about it. He did it with my knowledge, with my knowledge and approval . . .

MR. COUNSELLOR RAGINSKY: Please follow the text and you had better listen to what I want to say. I read the last paragraph which states:

> "To the Main Department V is attached the office of the Auslands-Organisation with the Reich Ministry of Economics. This office secures the co-operation between the ministry and the Auslands-Organisation of the Nazi Party."

This means that no mention is made of any private initiative of Von Jagwitz, as you tried to persuade us, but this department really was a part of your ministry. Have you found the passage?

FUNK: Yes. Herr Von Jagwitz had this liaison office and essentially it was limited to his person. It was a liaison office for collaboration with the Auslands-Organisation, which was a perfectly

natural procedure in many cases. I do not see why this should be unusual or criminal.

MR. COUNSELLOR RAGINSKY: We shall come back to the question at a later stage. Mr. President, I should like to pass over to another part. Would it be convenient to have a short recess now? I have a few more questions to ask.

THE PRESIDENT: Very well; the Tribunal will recess.

[A recess was taken.]

MR. COUNSELLOR RAGINSKY: You mentioned yesterday that you were the Plenipotentiary for Economy, but not a plenipotentiary in the full sense of the word. Schacht was the true plenipotentiary and you were merely a secondary one. Do you remember your article entitled "Economic and Financial Mobilization"? Do you remember what you wrote at that time?

FUNK: No.

MR. COUNSELLOR RAGINSKY: Well, we are not going to waste any time on that question. I shall remind you of it. I submit to the Tribunal in evidence Exhibit USSR-452 (Document Number USSR-452), an article by Funk, published in the monthly journal of the NSDAP and of the German Labor Front, entitled "Der Schulungsbrief," in 1939.

[Turning to the defendant.] You wrote at that time:

"As the Plenipotentiary for Economy appointed by the Führer, I must see to it that during the war all the forces of the nation should be secured also from the economic point of view."

Have you found this passage?

FUNK: Yes, I have found it.

MR. COUNSELLOR RAGINSKY: Further on you wrote:

"The contribution of economy to the great political aims of the Führer demands not only a strong and unified direction of all the economic and political measures, but also above all careful co-ordination. . . . Industry, food, agriculture, forestry, timber industry, foreign trade, transport, manpower, the regulation of wages and prices, finance, credits must be co-ordinated, so that the entire economic potential should serve in the defense of the Reich. In order to fulfill this task, the authorities of the Reich in charge of these spheres are included in my authority in my capacity as Plenipotentiary for Economy."

Do you confirm that this is precisely what you wrote in 1939?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: Is that question not quite clear to you?

THE PRESIDENT: He said, "Yes."

FUNK: I said, "Yes"; I certainly wrote that.

MR. COUNSELLOR RAGINSKY: You confirm it. You know about the issue in June 1941 of the so-called "Green File" of Göring? It was read into the record here. These are directives for the control of economy or, rather, directives for the spoliation of the occupied territories of the U.S.S.R. How did you personally participate in the planning of these directives?

FUNK: I do not know that. I do not know any more whether or not I participated at all.

MR. COUNSELLOR RAGINSKY: You do not remember? How is it possible that these documents were planned without you, Reich Minister of Economics, the President of the Reichsbank, and Plenipotentiary for Economy and the armament industry?

FUNK: First, at that time I was no longer Plenipotentiary for Economy. I was never plenipotentiary for the armament industry. The powers of the Plenipotentiary for Economy, shortly after the beginning of the war, were turned over to the Delegate for the Four Year Plan. That has been repeatedly confirmed and emphasized and what I did personally at that time concerning economy in the Occupied Eastern Territories can only have been very, very little. I do not remember it because the administration of economy in the Occupied Eastern Territories was in charge of the Economic Staff East and the Delegate of the Four Year Plan, and that office, of course, co-operated with the Rosenberg Ministry for the Occupied Eastern Territories. Personally I remember only that, as I mentioned yesterday, in the course of time the Ministry of Economics sent individual businessmen, merchants, from Hamburg and from Cologne, *et cetera,* to the East in order to secure private economic activities in the Eastern Occupied Territories.

MR. COUNSELLOR RAGINSKY: Yes, we have already heard what "activities" you dealt with. Your name for spoliation is "private economic activities." Do you remember the Prague Conference of December 1941—the meeting of the economic organization —or must I remind you of it?

FUNK: No.

MR. COUNSELLOR RAGINSKY: Not necessary?

FUNK: During the interrogations my attention was called by General Alexandrov to this speech, and I told him at that time

already that there was a wrong newspaper report about me which I had rectified later or after a short time.

MR. COUNSELLOR RAGINSKY: Just a minute, Defendant Funk. You are slightly anticipating events. You do not yet know what I am going to ask you. First listen to me and then reply. You have informed the Tribunal that you never attended any meeting of Hitler's at which the political and economic aims of the attack on the Soviet Union were discussed, that you did not know of any purpose and of any declared plans of Hitler for the territorial dismemberment of the Soviet Union, and yet you yourself declared in your statement that "the East will be the future colony of Germany," Germany's colonial territory. Did you say that the East would be the future colonial territory of Germany?

FUNK: No; I denied that in my interrogation. I immediately said, after this was presented to me, that I was speaking of the old German colonial territories. General Alexandrov can confirm that. He questioned me at that time.

MR. COUNSELLOR RAGINSKY: I have no intention of calling General Alexandrov as a witness. I am only asking you if you did say so; was it written as stated?

FUNK: No.

MR. COUNSELLOR RAGINSKY: You stated that you did not have to be reminded, but that is precisely what was mentioned in your speech, and I am going to quote verbatim from this speech:

> "The vast territories of the eastern European region, containing raw materials which have not yet been opened up to Europe, will become the promising colonial territory of Europe."

And exactly what Europe were you discussing in December 1941 and what former German territories did you wish to mention to the Tribunal? I am asking you.

FUNK: I have not said that. I said that I did not speak about colonial territories, but of the old colonization areas of Germany.

MR. COUNSELLOR RAGINSKY: Yes, but we are not speaking here of old territories; we are speaking here of new territories which you wished to conquer.

FUNK: The area had been conquered already. We did not have to conquer that. That had been conquered by German troops.

MR. COUNSELLOR RAGINSKY: No. It was not known that they were conquered, since you were already retreating from them.

You said that you were the President of the Continental Oil Company. This company was organized for the exploitation of the

oil fields of the Occupied Eastern Territories, especially in the districts of Grozny and Baku. Please answer me "yes" or "no."

FUNK: Not only of the Occupied Territories—this company was concerned with oil industries all over Europe. It had its beginnings in the Romanian oil interests and whenever German troops occupied territories where there were oil deposits, that company, which was a part of the Four Year Plan, was given the task by the various economic offices, later by the armament industry, of producing oil in these territories and of restoring the destroyed oil-producing districts. The company had a tremendous reconstruction program. I personally was the president of the supervisory board and I mainly had to do the financing of that company only.

MR. COUNSELLOR RAGINSKY: That I have already heard. But you have not answered my question.

I asked you if this company had as object the exploitation of the Grozny and Baku oil wells. Did the oil wells of the Caucasus form the basic capital of the Continental Oil Company?

FUNK: No.

MR. COUNSELLOR RAGINSKY: No? I am satisfied with your reply.

FUNK: That is not right. We had not conquered the Caucasus and therefore the Continental Oil Company could not be active in the Caucasus.

MR. COUNSELLOR RAGINSKY: All right. But Rosenberg at that time had already made a report on the conquest and exploitation of the Caucasus. Do you remember that here, before the Tribunal, a transcript of the minutes of a meeting held at Göring's office on 6 August 1942 with the Reich Commissioners of the Occupied Territories was read into the record? Do you remember that meeting?

FUNK: Yes.

MR. COUNSELLOR RAGINSKY: Did you participate in this meeting?

FUNK: That I do not know. Did they speak about the oil territories of the Caucasus in that meeting? That I do not know.

MR. COUNSELLOR RAGINSKY: No, I do not wish to say anything as yet. I shall ask you a question and you will answer. I ask you: Did you participate in that meeting?

FUNK: I cannot remember. It may very well be.

MR. COUNSELLOR RAGINSKY: You do not remember?

FUNK: No.

MR. COUNSELLOR RAGINSKY: In that case you will be shown a document. It has already been submitted to the Tribunal, and was here read into the record. It is Exhibit Number USSR-170; it has already been presented. As stated at that meeting, the most effective measures for the economic spoliation of the Occupied Territories of the U.S.S.R., Poland, Czechoslovakia, Yugoslavia, and other countries were discussed. At this meeting Defendant Göring addressed himself to you. Do you remember whether you were present at that meeting or not?

FUNK: Yes, indeed. I remember that. But what Göring told me then refers to the fact that, a long time after the Russian territories had been occupied, we sent businessmen there to bring into those territories any goods that might interest the population. For instance it says here: "Businessmen must be sent there.... We must send them to Venice to buy up these things in order to re-sell them in the occupied Russian territories." That is what Göring told me on that occasion. At least, that is what can be read here.

MR. COUNSELLOR RAGINSKY: I did not ask you about that, Defendant Funk. Were you present at that meeting or not? Could you answer that question?

FUNK: Of course. Since Göring talked to me, I must have been there. It was on 7 August 1942.

MR. COUNSELLOR RAGINSKY: Defendant Funk, you have replied here to certain questions asked by Mr. Dodd regarding the increase of the gold reserve of the Reichsbank; I should like to ask you the following question: You have stated that the gold reserves of the Reichsbank were increased only by the gold reserves of the Belgian Bank; but did you not know that 23,000 kilograms of gold were stolen from the National Bank of Czechoslovakia and transferred to the Reichsbank?

FUNK: I did not know that it had been stolen.

MR. COUNSELLOR RAGINSKY: Then what do you know?

FUNK: I stated explicitly here yesterday that the gold deposits had been increased mostly by the taking over of the gold of the Czech National Bank and the Belgian Bank. I spoke especially of the Czech National Bank yesterday.

MR. COUNSELLOR RAGINSKY: Yes, but I am not asking you about the Belgian Bank, but about the Bank of Czechoslovakia.

FUNK: Yes, I mentioned it yesterday. I said so yesterday...

THE PRESIDENT: He said that just now. He said that he had spoken about the Czechoslovakian gold deposits.

MR. COUNSELLOR RAGINSKY: Mr. President, he did not mention Czechoslovakia yesterday and I am asking him this question

today. But if he replies to this question in the affirmative, I shall not interrogate him any further on the matter, since he will have confirmed it.

[Turning to the defendant.] I now pass on to the next question, to the question of Yugoslavia. On 14 April 1941, that is, prior to the complete occupation of Yugoslavia, the Commander-in-Chief of the German Army issued a directive for the occupied Yugoslav territories. This is Exhibit USSR-140; it has already been submitted to the Tribunal. Subparagraph 9 of this directive determines the compulsory rate of Yugoslav exchange—20 Yugoslav dinars to the German mark. And the same compulsory rate of exchange, which had been applied to the Yugoslav dinar, was also applied to the Reich credit notes issued by the Reich Foreign Currency Institute.

These currency operations permitted the German invaders to export from Yugoslavia at a very cheap rate various merchandise as well as other valuables. Similar operations were carried out in all the Occupied Eastern Territories, and I ask you: Do you admit that such operations were one of the means for the economic spoliation of the Occupied Eastern Territories?

FUNK: No.

MR. COUNSELLOR RAGINSKY: Very well.

FUNK: That depends on the relation of the exchange rate. In some cases, in particular in the case of France, I protested against the underevaluation . . .

MR. COUNSELLOR RAGINSKY: Excuse me just one minute, Defendant Funk. You have already spoken about France and I do not want to take up the time of the Tribunal unnecessarily. I think you ought to answer my question.

FUNK: At the moment I do not know what the exchange rate between the dinar and the mark was at that time. In general, insofar as I had anything to do with it—I did not make the directive; that came from the Minister of Finance and from the Armed Forces—insofar as I had anything to do with it I always urged that the rate should not differ too greatly from the rate which existed and which was based on the purchasing power. At the moment I cannot say what the exchange rate for dinars was at that time. Of course, Reich credit notes had to be introduced with the troops because otherwise we would have had to issue special requisition vouchers, and that would have been much worse than introducing an official means of payment, as is now being done here in Germany by the Allies, because working with requisition vouchers is much more disadvantageous and harmful for the population and the entire country than working with a recognized means of payment. We invented the Reich credit notes ourselves.

MR. COUNSELLOR RAGINSKY: In other words, you wish to state that you had nothing to do with it and that the entire matter rested with the Ministry of Finance. Then tell me please, are you aware of the testimony given by your assistant, Landfried, whose affidavit was submitted by your defense counsel? You will remember that Landfried stated and affirmed something totally different. He said that in the determination of exchange rates in the occupied territories yours was the final and determining voice. Do you not agree with this statement?

FUNK: When these rates were determined, I, as President of the Reichsbank, was of course consulted and, as can be confirmed by every document, I always advocated that the new rates should be as close as possible to the old rates established on the basis of the purchasing power, that is to say, no underevaluation.

MR. COUNSELLOR RAGINSKY: Consequently, the compulsory rate of exchange in the occupied countries was introduced with your knowledge and according to your instructions?

FUNK: Not on the basis of my directives. I was only asked for advice.

MR. COUNSELLOR RAGINSKY: Your advice?

FUNK: I had to give my approval. That is, the Reichsbank Directorate formally gave the approval, but . . .

MR. COUNSELLOR RAGINSKY: I am satisfied with your reply. I now go on to the next question. On 29 May 1941 the Commander-in-Chief in Serbia issued an order regarding the Serbian National Bank, which order has already been submitted as Exhibit USSR-135. This order liquidated the National Bank of Yugoslavia and divided the entire property of the bank between Germany and her satellites. Instead of the National Bank of Yugoslavia a fictitious so-called Serbian Bank was created, whose directors were appointed by the German Plenipotentiary for National Economy in Serbia. Tell me, do you know who was the Plenipotentiary for National Economy in Serbia?

FUNK: It was probably the Consul General Franz Neuhausen, the representative of the Four Year Plan.

MR. COUNSELLOR RAGINSKY: Yes. It was Franz Neuhausen. Was he a collaborator in the Ministry of Economics?

FUNK: No.

MR. COUNSELLOR RAGINSKY: He never worked in the Ministry of Economics?

FUNK: No.

MR. COUNSELLOR RAGINSKY: He never worked there?

FUNK: Neuhausen? No, he never worked in the Ministry of Economics.

MR. COUNSELLOR RAGINSKY: Was he a collaborator of Göring's?

FUNK: Yes, that is correct.

MR. COUNSELLOR RAGINSKY: Well, he was a collaborator of Göring's. Do you admit that such specific currency operations, as a result of which the Yugoslavian Government and its citizens were robbed of several million dinars, could not have been carried out without your participation and without the co-operation of the departments within your jurisdiction?

FUNK: I do not know in detail the directives according to which the liquidation was carried out and by which the new Serbian National Bank was founded, but it goes without saying that the Reichsbank participated in such a transaction.

MR. COUNSELLOR RAGINSKY: I want to ask you two more questions. Together with the unconcealed spoliation, consisting in the confiscations and requisitions which the German invaders carried out in the Occupied Territories of Eastern Europe, they also exploited these countries to the limit of their economic resources by applying various exchange and economic measures, such as depreciation of currency, seizure of the banks, artificial decrease of prices and wages, thus continuing the economic spoliation of the occupied territories. Do you admit that this was precisely the policy of Germany in the Occupied Territories of Eastern Europe?

FUNK: No.

MR. COUNSELLOR RAGINSKY: You do not admit this?

FUNK: In no way whatsoever.

MR. COUNSELLOR RAGINSKY: I now submit to the Tribunal Document USSR-453. This is a new document, consisting of notes on a conference held by the Reich Commissioner for the determination of prices on 22 April 1943. Price experts from all the occupied territories attended this conference. I shall now read into the record some excerpts from this document. It says on Page 2:

"The 5½ million foreign workers are composed of: 1½ million prisoners of war, 4 million civilian workers."

The document further says:

"1,200,000 from the East, 1,000,000 from the former Polish territories . . . 200,000 citizens of the Protectorate . . . 65,000 Croatians, 50,000 remainder of Yugoslavia (Serbia)"—and so on.

Further this document also says in connection with the equalization of prices:

"Price equalization should be operated to the debit of the producer countries, that is, through the Central Clearing Office, which for the most part is to the advantage of the occupied countries."

On Page 14 it is stated:

"These price deliberations were of no importance for the occupied territories, since the main interest did not lie in the welfare of the population but in the utilization of all the economic forces of the country."

On Page 16 we find the following excerpt:

"Concerning the Occupied Eastern Territories, Ministerial Counselor Roemer has stated that prices there are far below German prices, and so far the Reich has already reaped large import profits."

Mention is made, on Page 19, of Germany's clearing debt, which amounted to 9,300,000 marks. At the same time the clearing balance for Czechoslovakia showed a deficit of 2,000,000; for the Ukraine of 82,500,000; for Serbia of 219,000,000; for Croatia of 85,000,000; and for Slovakia of 301,000,000 marks.

And finally, on Page 22 of the document, it says:

"The prices in the Occupied Eastern Territories are kept at the lowest possible level. We have already realized import profits which are being used to cover Reich debts. Wages are generally only one-fifth of what they are in Germany."

You must admit that the planned robbery perpetrated by the German invaders on so gigantic a scale could never have been carried out without your active participation as Minister of Economics, President of the Reichsbank, and Plenipotentiary for Economy?

FUNK: I must again stress that during the war I was no longer Plenipotentiary for Economy. But may I state my position to this document? First, there is the figure of the number of the workers which were brought from the occupied territories and other foreign countries into Germany. I have emphasized, myself, and it has been confirmed by other statements, that I was basically against bringing in foreign manpower from occupied territories to such an extent as to impair the economic order in those territories. I am not even speaking about recruitment of forced labor. I also opposed that. When an expert whom I do not know says that the deliberations about price policy were of no importance for the occupied territories, because the main interest did not lie with the welfare of the population but in the exploitation of economic forces, I must contradict that point of view. In any case, it is not my point of view. I do not know who the man was who said that, but it is a matter of

course that a territory cannot produce well unless the economy is kept on a good footing and prices are fixed at a level which enables the people to exist and to maintain social order. So I have to oppose this point of view also. As far as the clearing debt is concerned, I explained yesterday in detail that the clearing system was in common usage for Germany, and that I have always recognized and confirmed that these clearing debts were genuine debts which, after the war, had to be repaid in the currency in which they were incurred, based on the purchasing power at that time. I do not see any spoliation here.

Moreover, I must again stress the fact that I was not competent for the economy in the occupied territories, that I had no power to give a directive there and that I participated only insofar as I detailed officials to individual offices, just as all other departments did, and that, of course, there was co-operation between these offices and the department at home. But I cannot assume responsibility for the economy in the occupied territories. The Reich Marshal definitely admitted that as far as economic questions are concerned, it was his responsibility.

MR. COUNSELLOR RAGINSKY: I understand. You collaborated, and now you do not wish to bear the responsibility. You say that the expert has made the statement. But do you remember your testimony which you gave on 22 October 1945?

FUNK: I do not know what interrogation . . .

MR. COUNSELLOR RAGINSKY: When you were asked about the compulsory mobilization of foreign workers you were also asked if you knew about it and if you had ever protested against it. Is that correct? You replied, "No, why should I be the one to protest against it?"

FUNK: That is not correct. I protested against the compulsory recruitment of workers and against so many workers having been taken out of occupied territory that the local economy could no longer produce. That is not correct.

MR. COUNSELLOR RAGINSKY: I have one last question to ask you. Do you remember an article published in the newspaper *Das Reich,* dated 18 August 1940, in connection with your 50th birthday? This article is entitled, "Walter Funk, Pioneer of National Socialist Economic Thought." I shall read into the record a few excerpts from this article:

> "From 1931 on, Walter Funk, as personal economic adviser and Plenipotentiary of the Führer for Economics, and therefore the untiring middleman between the Party and German economy, was the man who paved the way to the new spiritual outlook of the German industrialists.

"If in the outbreak of 1933 the differences which had existed for more than a decade in the public life of Germany between politics and economy, and especially between politics and the industrialists, disappeared overnight, if from the outset, the guiding rule of all labor has been an ever-increasing contribution towards a common end, this is due to the pioneering work of Funk, who since 1939 has directed his speeches and his writings to that end."

And in the last paragraph of this article:

"Walter Funk remained true to himself because he was, and is, and will remain a National Socialist, a fighter who dedicates all his work to the idealistic aims of the Führer."

The whole world knows what the ideals of the Führer were.

Do you admit that this article gives a correct appreciation of your personality and your activities?

FUNK: Generally, yes.

MR. COUNSELLOR RAGINSKY: I have no more questions to ask.

[Dr. Dix approached the lectern.]

THE PRESIDENT: What is it you wish to say, Dr. Dix?

DR. DIX: I have only one question for the witness, which was brought up by the cross-examination of Mr. Dodd. I could not put this question any sooner, since I am asking it only because of what Mr. Dodd said.

THE PRESIDENT: Yes, go on.

DR. DIX: Witness, Mr. Dodd has put to you a record of your interrogation, according to which Schacht, after leaving the Reichsbank, still had a room there. You have heard the testimony of Schacht here. He testified clearly that he did not have a room at the Reichsbank but that the Reich Government put a room in his apartment at his disposal and contributed to the rent, and that the Reich Government paid a secretary whom he took with him from the Reichsbank, but who was now paid by the Reich Government and not by the Reichsbank. That was the testimony of Schacht. By your answer given to Mr. Dodd it was not quite clear whether you have any doubt about the correctness of that statement by Schacht. I ask for your opinion.

FUNK: I do not know anything about the apartment of Dr. Schacht. I was told at the time that he still came frequently to the Reichsbank and that a room was reserved for him. If that information was not correct, then it is not my fault. I do not doubt that what Dr. Schacht said is correct. He must know the arrangements concerning his apartment better than I do.

THE PRESIDENT: Dr. Sauter, do you wish to re-examine?

DR. SAUTER: Mr. President, we have found this final questioning of the Defendant Dr. Funk harder to follow than the other cases, because the translation caused serious difficulties. I have to admit, frankly, that I have been able to understand only part of what has been said here. The defendant may probably have had the same difficulty and therefore I should like to reserve the right, Mr. President, after I receive the stenographic record, to make one or two corrections, if the transcript should show this to be necessary. It has also been made more difficult for us, Mr. President, because in the course of cross-examination a large number of extensive documents was submitted to the Defendant Dr. Funk. We are gradually becoming used to those surprises. Moreover, the Defendant Funk was supposed to give answers to questions concerning documents which he had not issued, which had nothing to do with his activities, which he . . .

THE PRESIDENT: Dr. Sauter, the Tribunal saw no sign at all of the Defendant Funk not being able to understand thoroughly every question put to him. And I think that therefore there is no reason for any protest on your behalf and you should go on to put any question you wish to put in re-examination—let us say, questions which arise out of the cross-examination.

DR. SAUTER: Mr. President, on our earphones, at least on this side, we could not understand quite a number of questions. Whether it applied to these particular earphones or to the entire apparatus I do not know.

THE PRESIDENT: Well, if the Defendant Funk did not understand any questions put to him, he could have said so. He did not say so. He answered all the questions, from a logical point of view, perfectly accurately. You can ask him if you like, if he did not understand any of the questions put to him.

DR. SAUTER: Now, Herr Funk, the Prosecution among other things has put to you that you participated in the exploitation, the spoliation of France. In this connection is it correct that the merchandise, the consumer goods which came from France, were in many cases manufactured from raw materials which had come from Germany?

FUNK: Certainly. We continuously delivered coal, coke, iron, and other raw materials in France, so that they could produce goods—we delivered especially those raw materials which the French did not have in the country themselves. There was a very active exchange of production and a very close productive cooperation between the German and French economy. Even the same organizational methods were used.

DR. SAUTER: Dr. Funk, excerpts from an article which appeared on the occasion of your birthday have been read before. Do you know the author of that article?

FUNK: Yes, from the earlier years.

DR. SAUTER: Did he receive any factual material from you for that article?

FUNK: No.

DR. SAUTER: Did he not ask for it?

FUNK: No, I did not know anything about that article beforehand. I did not order a birthday article for myself.

DR. SAUTER: Precisely. So you did not know anything about that article and therefore, if I understand you correctly, there is no guarantee that what is said in this article is completely true.

FUNK: No. But I find that the tendency of the article is generally very good. The tendency . . .

DR. SAUTER: Witness, the American prosecutor confronted you yesterday with the matter of your negotiations with Rosenberg in the spring of 1941 and the fact that at that time, a few months before the march into Russia, you had these negotiations with Rosenberg. He apparently wanted to conclude that you had admitted, or wanted to admit, that you had known about the intention of Hitler to wage an aggressive war against Russia. You did not have a chance to say anything on this yesterday. Therefore I should like to give you another opportunity now to state very clearly what your belief was at that time concerning the intentions of Hitler in the spring of 1941, when you negotiated with Rosenberg, and what you knew about any possible causes for war before that time.

FUNK: As to the question of the American prosecutor, I did not understand it to mean that I knew anything about an aggressive war against Russia. The prosecutor spoke explicitly about preparations for war with Russia. I myself had already made it quite clear that I was completely surprised when the task was assigned to Rosenberg, and I was informed by Dr. Lammers as well as by Herr Rosenberg, that the reason for the assignment was that the Führer was expecting a war against Russia, because Russia was deploying large numbers of troops along the entire eastern border, because Russia had entered Bessarabia and Bukovina and because his negotiations with Molotov brought proof that Russia maintained an aggressive policy in the Balkans and the Baltic area, whereby Germany felt herself threatened. Therefore preparations had to be made on the part of Germany for a possible conflict with Russia. Also, concerning the meeting which the American prosecutor has

mentioned, I said explicitly that the measures concerning currency which were discussed there were approved by me, because we created thereby stable currency conditions in the Occupied Eastern Territory. I was therefore opposed to the idea that the German Reichsmark, which the Russian population would not have accepted because they could not even read it, should be introduced there.

DR. SAUTER: Witness, the Soviet Russian prosecutor has pointed out again and again that you were not only Reichsbank President and Reichsminister of Economics, but also Plenipotentiary for Economy. You have corrected that already and pointed out that from the very beginning when you were appointed, your authority as Plenipotentiary for Economy was practically taken over by Göring, and that, I believe, in December of 1939, your authority as Plenipotentiary for Economy was also formally turned over to Göring.

MR. DODD: I wish to enter an objection not only to the form this examination is taking, but as to its substance. Counsel is in effect testifying himself, and he is testifying about matters that the witness testified to on direct examination, and it seems clear to us that this cannot be helpful at all to the Tribunal as a matter of re-direct examination.

THE PRESIDENT: Dr. Sauter, is it really proper for you to get the witness to go over again the evidence which he has already given? The only object of re-examination is to elucidate any questions which have not been properly answered in cross-examination. The witness has already dealt with the topics with which you are now dealing, in the same sense which you are now putting into it.

DR. SAUTER: I have repeated the statements only because I want to put a question to the witness now concerning a document which was submitted only yesterday, which had not been submitted until then, and to which I could therefore not take any position; and because the Soviet Russian prosecutor has again made the assertion here that the defendant also during the war was Plenipotentiary for Economy, although that is not correct. Mr. President . . .

THE PRESIDENT: I have heard myself the witness say over and over again that he was not the Plenipotentiary General for Economy during the war. He has repeatedly said that.

DR. SAUTER: But it has been repeated from this side. Mr. President, yesterday a document was submitted which bears the Document Number EC-488.

THE PRESIDENT: What is the document you want to deal with?

DR. SAUTER: Number EC-488. It was presented yesterday, and is a letter dated 28 January 1939. On the front page it is marked in

large letters "Secret." Here in the original is the heading, which is in capital letters, and it reads, "The Plenipotentiary for War Economy." So much for the heading of the letter paper. Then the word "War" is crossed out, so that you can read only, "The Plenipotentiary for Economy."

Therefore, before 28 January 1939 the title of Plenipotentiary for War Economy must have been changed to a new title, "Plenipotentiary for Economy." I now ask that the defendant . . .

THE PRESIDENT: Yes, I see. The copy that we have before us has not got the word "War" in it at all.

DR. SAUTER: It can be seen on the photostat.

THE PRESIDENT: I see it. But what is the question you want to put?

DR. SAUTER: At the time when this letter was written, the Plenipotentiary was the Defendant Funk. I should like to ask to be permitted to put the question to him, how it can be explained that the title of his office—that is, Plenipotentiary for War Economy—was changed. The question would be how it could be explained that the title of his office, "Plenipotentiary for War Economy" had been changed to the new title, "Plenipotentiary for Economy."

FUNK: The reason is . . .

DR. SAUTER: One moment, Dr. Funk, please.

THE PRESIDENT: I did not ask you to stop putting your question. You can put your question. Go on. What is the question?

DR. SAUTER: Go on, Dr. Funk.

FUNK: The reason was that according to the old Reich Defense Law, Schacht had been appointed Plenipotentiary for War Economy, and on the basis of this second Reich Defense Law, which appointed me, I was appointed Plenipotentiary for Economy, because at that time it was quite clear that the special tasks concerning war economy—that is to say, armament industry, war economy proper—could no longer remain with the Plenipotentiary for Economy, but that he had essentially to co-ordinate the civilian economic departments.

DR. SAUTER: In connection with that, Mr. President, may I call your attention to another document which was submitted yesterday. That is Number 3562-PS. Here the heading already has the correct new title, "Plenipotentiary for Economy." That is no more "Plenipotentiary for War Economy," and that is also a new document which was submitted only yesterday. Mr. President . . .

MR. DODD: Just to keep the record straight, Mr. President, that Document 3562-PS is in evidence, and it was submitted by

Lieutenant Meltzer at the time he presented the case against the individual Defendant Funk.

THE PRESIDENT: Mr. Dodd, am I not right in thinking that the Defendant Funk stated from the outset in his examination in chief that he was appointed Plenipotentiary General for Economy?

MR. DODD: Yes, indeed, Sir. That is as I thoroughly understand it.

THE PRESIDENT: And you have not challenged that?

MR. DODD: We have not challenged the fact that he said so. But we do challenge the fact that he, in fact, was only for economy. We do maintain that he, in fact, had much to do with the war effort as the Plenipotentiary.

THE PRESIDENT: Yes. But he was not to be named that?

MR. DODD: No. And that Document EC-488 was not offered, anyway, for that purpose, but rather to show that the defendant was engaged in talking about what prisoners of war would do after an attack.

DR. SAUTER: Yesterday a document was produced about the interrogation of a certain Hans Posse. It is Document 3894-PS. The witness Hans Posse was formerly State Secretary in the Ministry of Economics and as such Deputy Plenipotentiary for Economy. That record has been submitted by the Prosecution in order to show that allegedly there was a struggle for power, as it says here, between Funk and Göring.

However, I should like to quote to the witness a few other points from that record so that several other points can also be used as evidence:

Witness, State Secretary Hans Posse says, for instance—and I should like to ask whether this is still your opinion today—that is Document 3894-PS, Page 2 of the German translation, at the bottom of the page—he was asked, "How often did you report to Funk in connection with your duties as Deputy to the Plenipotentiary?"

The witness answered then, "The Plenipotentiary for Economy never really went into action."

FUNK: I must repeat what I said again and again, and what has been confirmed by everybody who has been heard on that question. That was a post which was merely on paper.

DR. SAUTER: Then the witness was asked to what final end you, Dr. Funk, had worked.

It says, "Dr. Posse, is it correct that the office of Plenipotentiary for Economy was established to the final end of uniting all economic functions with a view to the preparation for war?"

Then the witness answered, "The purpose was what I have just said—to co-ordinate the various conflicting economic interests. But there was no talk about the preparation for war."

And on the same page, on Page 4, at the bottom, the witness says, I quote:

> "It is correct that the aim was to co-ordinate all economic questions, but the purpose was not to prepare for war. Of course, if war preparation should become necessary, it was the task of the Plenipotentiary for Economy to concern himself with these questions and to act as a co-ordinator."

FUNK: Herr Posse was an old, sick man, whom I had put in this post. He was formerly State Secretary under Schacht, and when I took over the ministry, I received a new State Secretary through Göring who, unfortunately, later became insane. And then State Secretary Dr. Landfried came to me, and Posse, who formally was still in the Ministry of Economics as State Secretary, was without a job. Therefore I made him an executive officer attached to the Plenipotentiary for Economy.

Here, of course, he had constant difficulties from the very beginning. The High Command of the Armed Forces or the War Economy Staff wanted to reduce the authority of the Plenipotentiary, as can be seen from the letter which was presented yesterday. And the civilian economy department did not want to follow his directives because they already had been subordinated to and had to follow the directives of the Delegate for the Four Year Plan. Therefore, as a matter of fact, that unhappy Plenipotentiary for Economy held a post which to all intents and purposes existed only on paper.

THE PRESIDENT: Would this not be a convenient time to break off now?

[The Tribunal recessed until 1400 hours.]

Afternoon Session

DR. SAUTER: Mr. President, I have two more questions which I wish to put to the Defendant Dr. Funk.

[Turning to the defendant.] Dr. Funk, before the recess we stopped at Document 3894-PS, the testimony of your State Secretary Posse. I should like to read one passage on Page 7 of the German text and ask you whether you agree with it. The witness Posse was asked by the Prosecution whether he, as Deputy Plenipotentiary for Economy, knew about the international relations, especially about the war situation and so forth, and he says, on Page 7, in the middle:

"We never knew anything about the international situation and we never heard anything about it, and if the international situation was mentioned in our discussions we could always voice merely our personal opinions."

And a few lines further down:

"We"—he means apparently himself and you, Dr. Funk—"We always hoped that there would be no war."

Do you agree with this opinion of your former State Secretary Posse?

FUNK: Yes. I have said repeatedly that until the end I did not believe that there would be a war, and the same is true of my colleagues, and everyone who spoke to me at that time will corroborate this. Herr Posse was, of course, still less informed about political and military events than I was. Consequently, that also applies to him.

DR. SAUTER: Then I have a final question to put, Witness. You have seen the film which the Prosecution has presented. Now, you were the President of the Reichsbank. Consequently you are familiar, possibly only superficially with the conditions in the vaults of the Reichsbank, at least, I assume, in Berlin, if not in Frankfurt, where the film was taken; and you also know how, especially during the war, these items which had been deposited with the bank in trunks or packages and the like were safeguarded. Possibly, Dr. Funk, on the basis of your own knowledge of the conditions you can make a statement regarding this short film which we have seen.

FUNK: I was completely confused by this film and most deeply shocked. Photography and especially films are always very dangerous documents because they show many things in a light different from what they really are. I personally have the impression, and I believe the Prosecution will probably corroborate this, that all these deposits of valuables and this entire collection of valuable

items came from the potassium mines where, at my instigation, all gold, foreign currency and other valuables of the Reichsbank had been stored away when, because of a terrific bombing attack on Berlin, we were no longer able to work in the Reichsbank. The Reichsbank building alone in this one raid on 3 February 1945 was hit by 21 high explosive bombs; and it was only by a miracle that I was able to reach the surface from this deep cellar together with 5,000 other people. Gold, foreign currency, and all other deposits of valuables were then taken to a potassium mine in Thuringia and from there apparently to Frankfurt, I assume. So this concerns, to a large extent, normal deposits by customers who had placed their valuables, their property, in these safe deposits which could not be got at by the Reichsbank. Consequently I cannot tell from this film which of these items were deliveries by the SS and which were genuine deposits. The Prosecutor certainly is correct when he says that no one would deposit gold teeth in a bank. It is, however, quite possible that certain functionaries of concentration camps made geniune deposits in the Reichsbank which contained such articles, to safeguard them for future use. I think that is possible. However, in conclusion I must say once more that I had no knowledge whatsoever of these things and of the fact that jewelry, diamonds, pearls, and other objects were delivered from concentration camps to the Reichsbank to such an extent. I knew nothing about it; it was unknown to me, and I personally am of the opinion that the Reichsbank was not authorized to do this kind of business. It is certainly clear from one document, which contains an account for the Minister of Finance, that most likely everything from the concentration camps was first brought to the Reichsbank and then the unfortunate officials of the Reichsbank had to sort it, send it on to the Minister of Finance—or rather to the pawnbroker who was under the Minister of Finance—and prepare a statement of account. Therefore, I must request that someone be examined on these matters—first of all Herr Puhl himself, and perhaps someone else who was concerned with these things—in order to explain what actually took place and above all, to show that I personally had no knowledge whatsoever of these matters except for the few facts which I myself have described to the Court.

DR. SAUTER: Mr. President, I have finished my interrogation of the Defendant Funk, and I should now like to ask permission to examine the only witness whom I can call at this time, the witness Dr. Hayler.

THE PRESIDENT: Very well.

MR. DODD: *[Interposing.]* Mr. President, may I raise one matter before the witness is excused? This Document 3894-PS, that we have quoted from and that the defendant has quoted from,

contains a number of other quotations and I think it would be well if we submitted the whole document in the four languages; and I shall be prepared to do that so the Tribunal will have the benefit of the whole text. So far we have both been quoting from it, but I think it would be most helpful to the Court if it had the whole text.

And may we ask, Mr. President, shall we make arrangements or should I do anything about getting the witness Puhl here?

THE PRESIDENT: Dr. Sauter, have you any request to make with reference to the witness Puhl, who made an affidavit?

DR. SAUTER: Regarding the witness Emil Puhl I beg to request, Mr. President, that he be brought here for cross-examination. I was going to make that request in any case.

THE PRESIDENT: Yes, certainly, Dr. Sauter, the witness Puhl should be brought here. He will be brought here as soon as possible.

DR. SAUTER: Thank you.

THE PRESIDENT: Now the defendant can return to the dock.

[The witness Dr. Hayler took the stand.]

THE PRESIDENT: Will you state your full name?

HAYLER (Witness): Franz Hayler.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. SAUTER: Dr. Hayler, how old are you?

HAYLER: 46 years.

DR. SAUTER: Are you a professional civil servant, or how did you get into the Ministry of Economics under Dr. Funk?

HAYLER: I was an independent business man and merchant and as such first became the head of the "Economic Group Retail Trade" within the organization of industrial economy. In this capacity I had very close contact with the Ministry of Economics. After Minister Funk had been appointed Minister for Economics I reported to him regarding the scope of my work, and on that occasion I made his acquaintance. When I was then put in charge of the "Reich Group Trade," the working relations between the organization directed by me and the Ministry, especially between the then State Secretary Landfried and the Minister himself, became very friendly.

After the separation of the ministries in the autumn of 1943, the main task of the Ministry of Economics was to provide for the

German people, that is, the civilian population. As head of the trade organization I was the person responsible for the sale of merchandise, that is, for the procurement of supplies, and during a conference with Minister Funk regarding the co-operation between trade and the Ministry, Herr Landfried, who was then State Secretary, made the suggestion that Minister Funk call me into his Ministry and make me his deputy. Herr Landfried believed that under the existing conditions he himself was not strong enough to carry out this difficult task since the Ministry had been deprived of its influence on production. Then, when Minister Funk told him in reply to his suggestion that he, Landfried, was the deputy of the Minister, Landfried replied that he could not continue to carry out these tasks and that he asked to be permitted to retire and proposed that I be his successor. About two or three weeks later I was put in charge of the affairs of the State Secretary.

DR. SAUTER: When was this conference?

HAYLER: This conference took place in October 1943; my appointment came on 20 November 1943.

DR. SAUTER: So that until the autumn of 1943, Dr. Hayler, you were employed in your organizations only in an honorary capacity?

HAYLER: Yes.

DR. SAUTER: That was, I think, retail trade?

HAYLER: Yes, trade.

DR. SAUTER: And as from 1943 you became official in the Reich Ministry of Economics in the capacity of State Secretary?

HAYLER: I became an official with this position of State Secretary on 30 January 1944.

DR. SAUTER: In this position you were one of the closest collaborators of Dr. Funk?

HAYLER: I was his deputy.

DR. SAUTER: Dr. Hayler, during a conference that we had on the day before yesterday, I discussed with you the question of whether the Defendant Dr. Funk was a particularly radical man or whether, on the contrary, he acted with moderation and consideration toward others. What do you have to say to this question which may have certain importance in forming an opinion on the personality of the Defendant Funk?

HAYLER: Funk is above all very human, and always has been. Radicalism is quite foreign to his entire character and being. He is more of an artist, a man of very fine artistic feeling and scholarly ideas. I believe one can say that at no time was he a doctrinaire or dogmatic. On the contrary, he was conciliatory and anxious to

settle disputes. For this reason, in Party circles in particular, he was considered too soft, too indulgent, in fact he was accused many times of being too weak. He tried to protect domestic economy from political encroachment and from unnecessary severity; and because of his respect and his regard for enterprising endeavor and out of his own responsibility to economy and to the people, he fought against unnecessary intervention in various enterprises even during the war. He protected industry against mergers and closures. This finally led to his being deprived of the responsibility for production in the decisive phase of the war.

I recall from the time of my collaboration with him, when I was still in charge of the trade organization, that Funk on various occasions interceded for men in the industrial world who were in political difficulties. I believe, however, that because of these individual cases, such as his intervention on behalf of Consul General Hollaender or of Herr Pietsch, and because of his attempts to promote peace, he at that time had to expect grave consequences; also because of his intervention in the case of Richard Strauss, as is surely known, and in similar cases. I do not think these individual cases are of such importance as perhaps the following: After the catastrophe of 9 November 1938 the process of Aryanization was to be intensified in the Ministry of Economics; and at that time a few political men were forced upon the Ministry, especially Herr Schmeer. I remember distinctly that at that time Landfried in particular, as well as Funk, slowed down considerably this radicalization of the Ministry; and Funk and the Ministry were blamed for doing so.

After 8 and 9 November I once had a conference regarding the events of that date with Himmler, in which I voiced my complaints. Himmler on that occasion finally reproached both Funk and myself by saying, among other things:

> "Finally, you people on the economic side and connected with the economic management are also to blame that things have gone too far. People like Herr Schacht cannot be expected to do anything except go slow all the time and oppose the will of the Party; but if you and Funk and all you people on the economic side had not slowed things down so much, these excesses would not have happened."

DR. SAUTER: Yes, Dr. Hayler; another question. You also worked with Dr. Funk in matters concerning the economy of the occupied territories. Dr. Funk is accused of having played a criminal part in despoiling the occupied territories as well as in destroying their currency and economic systems. Could you enlighten the Court as briefly as possible on the Defendant Funk's attitude and activities? As briefly as possible.

HAYLER: I believe two facts must be stated first of all: First, the influence of the Ministry of Economy on the occupied territories was relatively limited. Secondly, during the year in which I was in the Ministry these questions were no longer particularly important.

Generally speaking, the position was as follows: Funk was constantly accused of thinking more of peace than of war. The opinions he proclaimed both in his speeches and in print referred to a European economic policy; and I assume that these talks and publications or articles are before the Court.

DR. SAUTER: Yes, they are here.

HAYLER: Funk looked at the occupied territories from exactly the same point of view. He raised repeated objections to the over-exploitation of the occupied territories and expressed the view that war-time co-operation should form the basis of later co-operation in peace. His view was that confidence and willingness to co-operate should be fostered in the occupied territories during the war. He expressed the view that the black market cannot be combated by the black market and that, since we were responsible for the occupied territories, we must avoid anything likely to disturb the currency and economic system of these territories.

I think I remember that he also discussed the question with the Reich Marshal and defended his own point of view. He also repeatedly opposed unduly heavy occupation expenses, and always favored the reduction of our own expenditure, that is, of German expenditure in the occupied territories. In other words, he regarded the occupied territories in exactly the same way as other European countries; and this attitude is best illustrated by the speech he made in Vienna, I believe, in which he publicly acknowledged as genuine debts the clearing debts, the high totals of which were due mainly to differences in price, that is, inflationist tendencies, in the countries which delivered the goods.

DR. SAUTER: Dr. Hayler, the Defendant Funk is furthermore accused of playing a criminal part in the enslavement of foreign workers. This accusation applies particularly to the period during which you were a co-worker of Dr. Funk. Can you tell us briefly how Funk thought and acted in regard to this point?

HAYLER: There can be no question of Funk's co-operation in questions regarding the employment of foreign labor at this time, but only within the scope of his responsibility in the Central Planning Board. But it remains to be seen whether the Central Planning Board was at all responsible for the employment of workers or whether the Central Planning Board did nothing more than ascertain the manpower needs of the various production spheres.

However, regardless of what the tasks of the Central Planning Board may have been, Funk's position in the Central Planning Board was the following:

Funk, as Minister of Economy, was responsible for the supplies for the civilian population and for export. In the period following the separation of the ministries, no additional foreign worker I believe was employed in the production of supplies for civilians or for export. On the contrary, Funk was constantly confronted with the fact that during that time German and foreign workers were continually being removed from the production of consumer goods and put into armament production. Consequently, I cannot imagine that an accusation of this sort can be made against Funk with reference to this period of time.

On this occasion I should like to emphasize another point which seems important to me. Provisioning the foreign workers was a very serious question. I believe that even Herr Sauckel will corroborate the fact that, when this question came up, Funk was at once ready—even though there was already a great scarcity of provisions for the German people due to many air raids and destructions—to release large quantities of supplies and put them at the disposal of the foreign workers.

DR. SAUTER: If I understand you correctly, he tried to see to it that the foreign workers who had to work in Germany were supplied as well as was possible with consumer articles: food, shoes, clothes, and so on.

HAYLER: Particularly shoes and clothing; Funk was not the competent authority for food.

DR. SAUTER: Shoes and clothing?

HAYLER: Yes, I have specific knowledge of this. And as a result Funk had considerable difficulty; for the Gauleiter, in view of the great scarcity of goods, did their best to secure supplies for the inhabitants of their own Gaue for whom they were responsible, and in so doing used every means which came to hand. Funk constantly had to oppose the arbitrary acts of the Gauleiter, who broke into the supply stores in their Gaue and appropriated stocks intended for the general use.

DR. SAUTER: Dr. Hayler, do you know whether Dr. Funk—I am still referring to the time when you worked with him—represented the viewpoint that the foreign worker should not be brought to Germany to work here but that rather the work itself should be taken from Germany into the foreign countries so that the foreign worker could perform his work in his home country and remain at home? Please answer that.

HAYLER: I know very well that Funk represented that viewpoint; and it is in accordance with his general attitude, for the political disquiet and dissatisfaction which accompany the displacement of such large masses of human beings temporarily uprooted was in opposition to the policy of appeasement and reconstruction which was definitely Funk's goal.

DR. SAUTER: I now come to the last question which I wish to put to you, Dr. Hayler. When the German armies retreated and when German territories were occupied by enemy armies, difficulties arose regarding the supplying of these territories with money. At that time Hitler is supposed to have planned a law according to which the acceptance and passing on of foreign occupation money was to be punished even by death. I am not interested now, Dr. Hayler, in finding out why Hitler planned to do this; but I am interested in finding out, if you can tell me, how the Defendant Funk reacted to this demand by Hitler and what success he had.

HAYLER: Two facts can be established in regard to this point, which should be of interest to the Tribunal. I have rarely seen Funk as depressed as at that time, after he had received information about the so-called "scorched earth decree." I believe he was the first minister to issue at that time two very clear decrees, one from the Ministry of Economics, in which he gave definite instructions that wherever German people were an administration of economy in some sort of form must remain; where it is necessary that people be provided for, the State must continue to provide for these people.

The second decree was issued at the same time by the President of the Reichsbank, in which he decreed that the money market had to be cared for by the remaining offices of the Reichsbank in the same way that economy was to be cared for.

Regarding your question itself, I recall very distinctly that the Führer himself, it was said, had demanded of the Ministry of Economics the issuing of a legal regulation according to which the acceptance of occupation money was forbidden to every German on pain of death. Herr Funk opposed this demand very energetically, I believe with the help of Herr Lammers. He himself telephoned headquarters repeatedly and finally succeeded in having the Führer's directive withdrawn.

DR. SAUTER: Have you finished, Dr. Hayler?

HAYLER: Yes.

DR. SAUTER: Mr. President, I have no further questions to put to the witness.

THE PRESIDENT: Do the other Defendants' Counsel wish to ask any questions?

[No response.]

Does the Prosecution wish to cross-examine?

MR. DODD: When did you join the Nazi Party, Mr. Witness?

HAYLER: Did I understand you correctly—when did I become a member of the NSDAP?

MR. DODD: That is right.

HAYLER: December 1931.

MR. DODD: Did you hold any offices in the Party at any time?

HAYLER: No; I never held office in the Party.

MR. DODD: You were the head of a trade group in 1938, the Reichsgruppe "Handel"?

HAYLER: I was the head of the Economic Group "Retail Trade" from 1934 on, and from 1938 on, head of the Reich Group "Trade." This organization was a part of the organization of industrial economy and was under the Reich Ministry of Economics.

MR. DODD: Membership in the group that you were the head of was compulsory, wasn't it?

HAYLER: Yes.

MR. DODD: When did you join the SS?

HAYLER: I joined the SS in 1933, in the summer.

MR. DODD: That was a kind of Party office, wasn't it, of a sort?

HAYLER: No, it was not an office. I became connected with the SS because of the fact that in Munich 165 businessmen were locked up and because I knew Himmler from my student days—I had not seen him again until then—the businessmen in Munich asked me to intercede for them in the summer of 1933. But I had no office in the Party or in the SS.

MR. DODD: When did you become a general in the SS?

HAYLER: I never was a general in the SS. After I had been appointed State Secretary, the Reichsführer bestowed on me the rank of a Gruppenführer in the SS.

MR. DODD: A Gruppenführer—isn't that the equivalent of a general in the SS?

HAYLER: Yes and no. In the SS there was the rank of Gruppenführer and there was the rank of Gruppenführer and general of the Police or of the Waffen-SS; but the Gruppenführer was not a general if it was only an honorary rank. This could easily be seen from our uniforms, because we did not wear a general's epaulets or a general's uniform.

MR. DODD: You know Ohlendorf pretty well, don't you?

HAYLER: Yes.

MR. DODD: He worked for you at one time. He was under your supervision. Isn't that so?

HAYLER: I worked with Ohlendorf from 1938 on.

MR. DODD: You know, he has testified before this Tribunal that he supervised the murdering of 90,000 people; did you know that?

HAYLER: I heard about that.

MR. DODD: Did you know about it at the time that it was going on?

HAYLER: No.

MR. DODD: Did you know Pohl, the SS man—P-o-h-l?

HAYLER: May I ask you for that name again?

MR. DODD: Pohl—P-o-h-l?

HAYLER: I do not remember knowing an SS man Pohl.

MR. DODD: Do you know a man called Obergruppenführer Pohl of the SS?

HAYLER: No—Yes, I know an Obergruppenführer Pohl. Obergruppenführer Pohl was the chief of the administrative office of the SS.

MR. DODD: Did you have conversations and meetings with him from time to time?

HAYLER: Officially I had a few conversations with Pohl. Usually they were very unpleasant.

MR. DODD: Well, that's another matter. How often would you say, between 1943 and the end, the time of your surrender, that you met with Pohl to discuss matters of mutual interest between the SS and your own Ministry of Economics? Approximately, because I don't expect you to give an accurate account, but about how many times, would you say?

HAYLER: I must give a short explanation about this. Between the . . .

MR. DODD: Give that afterwards. Give me the figure first.

HAYLER: Yes. Perhaps three or four times, perhaps only twice. I do not know exactly.

MR. DODD: Are you telling us three or four times a year or three or four times during the whole period between 1943 and 1945?

HAYLER: During my time in office, yes, three or four times; it was only one year.

MR. DODD: Did you talk to him about the Reichsbank's or the Ministry of Economics' co-operating in the financing of the building of factories near the concentration camps?

HAYLER: No.

MR. DODD: You know about that, do you?

HAYLER: No. This question was never discussed with me.

MR. DODD: What did you talk to him about?

HAYLER: A great controversy had arisen between the Ministry of Economics and the SS because after I had taken over the State Secretariat in the Ministry of Economics, Himmler had instructed me to turn over to the SS a factory which belonged to the Gau Berlin. I fought against this and did not obey Himmler's instructions. The files about this must surely still be in existence. I then was instructed to discuss this matter with Pohl. In these conferences and in a personal conversation which Himmler requested and ordered, I still fought against Himmler's instructions, because I was fundamentally against the SS having industrial enterprises of its own.

MR. DODD: Did you talk to the Defendant Funk about this difficulty with Himmler and Pohl?

HAYLER: Yes, because these difficulties resulted in Himmler's writing me a letter in December in which he told me that he ceased to have confidence in me and that he had no desire to work with me any more. I reported this to the Defendant Funk in December.

MR. DODD: Did Funk tell you that his bank was helping Himmler out in the building of factories near the concentration camps?

HAYLER: I know nothing about that.

MR. DODD: You never heard of that before now?

HAYLER: Up until now I have never heard anything about Funk's or the Ministry of Economics' co-operation in the financing of such buildings or about anything of the sort.

MR. DODD: It is perfectly clear, I think, but I want to make certain, that from 1943 to 1945, while you were the deputy to Funk in the Ministry of Economics, the questions of purchasing on the black market, and so on, in the occupied countries ceased to be of any real importance, didn't they? You said that; I understood you to say that a few minutes ago yourself.

HAYLER: In 1944—and my time in office virtually did not start until 1944, since in December I had a Ministry which was totally bombed out and we did not get started working again

until January 1944—these questions were no longer of decisive importance, since a process of retrogression had already set in.

MR. DODD: All right. You also were, Mr. Witness, at the Vienna speech to which you referred, which was made in 1944; and it had nothing to do with the occupied countries but was directed only at the satellite states. Are you aware of that or not?

HAYLER: The speech in Vienna?

MR. DODD: Yes, the speech in Vienna in 1944.

HAYLER: Yes, it is true; I have already said that. Both the speech in Königsberg and the speech in Vienna did not deal directly with the occupied territories, but with Europe as a whole. I...

MR. DODD: Did it deal with the occupied territories directly or indirectly? Now, have you read that speech?

HAYLER: I heard the speech. Quite definitely it had nothing to do with them directly.

MR. DODD: Finally, in view of your testimony concerning Funk and what he thought about forced labor, you know, don't you, that he took an attitude of unconcern about the forcing of people to come to Germany? Do you know that?

HAYLER: No.

MR. DODD: Well, you know he has said on interrogation that he didn't bother his head about it, although he knew that people were being forced to go to Germany against their will. Are you aware of that?

HAYLER: No, I am not aware of that. I had with Funk...

MR. DODD: All right. If you did know it, would that make some difference to you; and would you change your testimony some?

HAYLER: I am not aware of the fact that Funk is supposed to have had this attitude or...

MR. DODD: Very well. Perhaps I can help you by reading to you from his interrogation of 22 October 1945, made here in Nuremberg. Among other things, he was asked these few questions and made a few answers:

> "As a matter of fact, you were present at many meetings of the Central Planning Board, were you not?"

Funk answered and said:

> "I was present at the meetings of the Central Planning Board only when something was required for my small sector; that is to say, something which had to do with the

export and consumer goods industries as, for example, iron. I had to put up a fight on each occasion to get just a few thousand tons for my consumer goods industry."

The next question was:

"Yes, but during those meetings you attended, you heard, did you not, discussions concerning forced labor?"

Funk answered: "Yes."

"Question: 'And you knew from those meetings that the policy was to bring in more and more foreign workers to the Reich against their will?' "

Funk answered: "Yes, certainly."

"Question: 'And you never objected to that, I take it?' "

Funk answered:

"No, why should I have objected? It was somebody else's task to bring these foreign workers into the Reich.

"Did you believe it was legal to take people against their will from their homes and bring them into Germany?" was the last question that I want to quote to you. He answered:

"Well, many things happen in wartime which aren't strictly legal. I have never racked my brains about that."

Now, if you know that to be his attitude from his statements made under oath on an interrogation here, would that change your view about Funk and would it cause you to change the testimony which you have given before the Tribunal here today?

HAYLER: I can testify only to those things which I myself know. I cannot remember any such statements by Funk. I do know and I remember distinctly that we frequently spoke about the occupied territories, about the later development in Europe which was to, and could, result from co-operation. We also spoke about the procuring of workers and that Funk fundamentally had a viewpoint different from the one that prevailed and that he was not in agreement with these things. I can merely repeat this and if you question me here as a witness, I can say only what I know.

MR. DODD: Did you go over all of your questions and answers with Dr. Sauter before you took the stand? You knew what you were going to be asked when you came here, didn't you?

HAYLER: Dr. Sauter gave me an idea what he would question me about and what he was interested in.

MR. DODD: I have no further questions.

THE PRESIDENT: Do any other members of the Prosecution wish to cross-examine? Dr. Sauter, do you want to re-examine?

DR. SAUTER: No.

THE PRESIDENT: The witness can retire.

[The witness left the stand.]

DR. SAUTER: Mr. President, there are a few interrogatories missing, some of which have already arrived and are being translated. I request that at a later occasion, perhaps after the case against Defendant Schirach, I be permitted to read these interrogatories. And then, Mr. President, I should like to say something of a general nature. I have already read extracts from various documents and requested that all of them be admitted as evidence and I should like to repeat this request for all these documents. With that I shall have finished my case for Funk.

Mr. President, may I make another request of you at this moment, namely, that during the next few days the Defendant Von Schirach be excused from being present at the sessions in Court so that he can prepare his case. In his absence I shall look after his interests or else, when I am not here, my colleague Dr. Nelte will. Thank you very much.

THE PRESIDENT: Who is appearing for the Defendant Schirach?

DR. SAUTER: I am; and when I cannot be present, then Dr. Nelte will. One of us will always be in Court and look after his interests.

THE PRESIDENT: Yes, very well, Dr. Sauter. Now the Tribunal will adjourn for 10 minutes.

[A recess was taken.]

THE PRESIDENT: Dr. Sauter, there was a document which you didn't refer to. I think it was an affidavit of a witness called Kallus. Were you offering that in evidence? It was an interrogatory of Heinz Karl Kallus.

DR. SAUTER: The Kallus interrogatory, Mr. President, has already arrived and at the moment it is in the process of translation. I shall submit it as soon as the translation has been received by the Prosecution.

THE PRESIDENT: Well, we have got a translation into English.

DR. SAUTER: I believe, Mr. President, that what you have is an affidavit by Kallus, and in addition there is a Kallus interrogatory, which is in process of translation and which I shall submit later.

THE PRESIDENT: This takes the form of an interrogatory, questions and answers, what I have in my hand. I am only asking whether you want to offer that.

DR. SAUTER: Yes, I offer that in evidence. I request that judicial notice be taken of it.

THE PRESIDENT: Very well; you gave it a number then, did you? What number will it be?

DR. SAUTER: Exhibit Number 5, if you please.

THE PRESIDENT: Very well.

DR. SAUTER: Thank you very much.

THE PRESIDENT: Now, Dr. Kranzbühler.

FLOTTENRICHTER OTTO KRANZBÜHLER (Counsel for Defendant Dönitz): Mr. President, first I should like to ask the permission to have a secretary, in addition to my assistant, in the courtroom, in order to facilitate the submission of documents.

With the permission of the Tribunal, I shall first submit a number of documents; and I shall use the document book of the Prosecution and the document books which I have submitted. These document books consist of four volumes. The table of contents is in Volume I and in Volume III.

In the first document of the document book of the Prosecution, Exhibit USA-12 (Document Number 2887-PS), I should like to correct an error in translation which may be of significance. It says there, in the German text, under "1939," "Konteradmiral, Befehlshaber der Unterseeboote," and that in the English text has been translated by "Commander-in-Chief." The correct translation should be "Flag Officer of Submarines." That point is of importance in regard to the fact that Admiral Dönitz, until his appointment as Commander-in-Chief of the Navy in 1943, was not a member of the group which the Prosecution terms criminal.

I should like to call the attention of the Tribunal back to Exhibit GB-190 (Document Number D-652 (a-b)). That is a sea chart which the Prosecution has submitted. This chart shows the position of the German submarines to the west of England on 3 September 1939, and the Prosecution uses that chart as evidence for the question of aggressive war.

The Prosecution says, rightly, that these U-boats must have left their home bases at an earlier date. The first document, which I offer as Dönitz-1, is to prove, first, that this belongs in the category of measures resorted to in times of crisis such as were taken by every nation in Europe at this time, and that they were in no way preparatory measures for an aggressive war against England, because such a war was not planned.

I shall read from this document—document book, Page 1. It is an excerpt from the War Diary of the Naval Operations Staff of September 1939, and I read the entry of 15 August:

"Prepared (for Case White) the following measures:"

THE PRESIDENT: What page?

FLOTTENRICHTER KRANZBÜHLER: Page 1 of the document book, Volume I.

THE PRESIDENT: Yes.

FLOTTENRICHTER KRANZBÜHLER:

"15. 8. Prepared (for Case White) the following measures:

"On 15. 8. *Spee* and all Atlantic submarines ready to sail.

"On 22. 8. Transport *Westerwald* ready to sail.

"On 25. 8. *Deutschland* ready to sail."

And then we find the list of these ships:

"21. 8. Report B-service about emergency measures of French fleet.

"23. 8. Report B-service: Continuation of French emergency measures of fleet to 3rd grade. English and French blockade measures off ports.

"25. 8. B-service reports: German and Italian steamers are being watched and reported by France."

And then the instructions:

"31. 8. Arrival Order I of OKW for conduct of war: Forcible solution in the East, attack against Poland 1 September, 0445 hours. In the West responsibility for starting hostilities unequivocally to be left to England and France. Strictly respect neutrality of Holland, Belgium, Luxembourg, Switzerland. The western border not to be crossed. At sea no hostile actions or such that could be interpreted as hostile. Air Force only in defense.

"In case of opening of hostilities by Western Powers: Defense only, economical use of forces. Reserve start of aggressive operations. The army to hold the 'Westwall.' Naval economic war concentrated against England. To augment effect probable declaration of zones of danger. Prepare these and submit them. The Baltic to be safeguarded against enemy invasion."

So far this document. With the next document, Dönitz-2, I should like to prove that the British submarines, too, were active before the start of the war and appeared in the Bay of Helgoland at the very beginning of the war. It is on Page 2 of the document book. I probably need only point out that as early as 1 September electric

motor noises were heard in the Bay of Helgoland and that on 4 September several reports arrived concerning English submarines sighted in the Bay of Helgoland.

I come now to the document with reference to which Admiral Dönitz is accused of participating in the planning of the attack against Norway. That is Exhibit GB-83 (Document Number C-5). The Prosecution has submitted it as proof of the fact that Admiral Dönitz played a decisive part in the occupation of Norway. I shall refer to this document in more detail when examining the witness. I merely want to establish certain dates now. On the document —and I am about to submit the original to the Tribunal—there is a stamp which establishes when the document was received at the High Command. This stamp shows the date 11 October 1939.

THE PRESIDENT: You are speaking of GB-83?

FLOTTENRICHTER KRANZBÜHLER: Yes. And I refer now to Exhibit GB-81 (Document Number C-66), Page 6 of my document book. According to this the decisive report by Grossadmiral Raeder to the Führer had already been made on 10 October 1939, that is, a day before GB-83 was received at the High Command.

With the next document I should like to prove that considerations as to bases had nothing to do with the question of an aggressive war, as far as the Flag Officer of Submarines, Admiral Dönitz, was concerned. I am submitting Documents Dönitz-3 and Dönitz-4. They are on Page 3 and 5 of the Document Book. Dönitz-3 is a war diary of the Flag Officer of Submarines of 3 November 1939, and I read from the second paragraph, the 10th line from the top:

> "At the same time Naval Operations Staff reports that there are possibilities for the establishment of a 'Base North' which seem to be very promising. In my opinion the immediate introduction of all possible steps in order to arrive at a clear judgment of the existing possibilities is of the greatest importance."

And then there follows a discussion of the advantages and disadvantages of such a base, which is absolutely identical with the considerations mentioned in GB-83. It is a question of Murmansk in connection with Base North, as can be seen from Document Dönitz-4; and it is known that these considerations were in full accord with the Soviet Union.

Furthermore, I should like to show that the question of bases continuously comes up in enemy navies without reference to . . .

THE PRESIDENT: Dr. Kranzbühler, you are going a little bit fast over these documents and I am not quite sure that I am quite following what use you are making of them. This base mentioned in the report is Murmansk?

FLOTTENRICHTER KRANZBÜHLER: Yes; Murmansk. And I want to use it as proof, Mr. President, that the question of bases has nothing to do with the question of whether one wants to wage aggressive war with the country in which these bases are situated. The considerations as to Murmansk were taken in full accord with the Soviet Union, and in the same manner Admiral Dönitz took the question of Norwegian bases into consideration. That is the subject of my proof.

THE PRESIDENT: But the fact that Murmansk was suggested as a base, to be taken with the consent of the Soviet Union—if it was the case—doesn't have any relevance, does it, to taking a base in Norway without the consent of Norway.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, the relevancy seems to me to exist in the fact that Admiral Dönitz, as Commander of U-boats, in both cases received merely the order to state his opinion about bases in a certain country but that in the last analysis he had as little to say in the case of Narvik and Trondheim as in the case of Murmansk.

COLONEL Y. V. POKROVSKY (Deputy Chief Prosecutor for the U. S. S. R.): In Document Number 3, the one just being referred to by the defense counsel for the Defendant Dönitz, mention is definitely made of the northern bases; but nothing is said in this document of any plans of the Soviet Union. And to discuss, here and now, some plan or other of the Soviet Union is in my opinion quite out of order, since there are no plans of the Soviet Union in connection with the northern bases, and there never have been.

FLOTTENRICHTER KRANZBÜHLER: If the representative of the Soviet Union has any doubts that these bases were considered in full accord with the Soviet Union, then I shall prove that by calling a witness.

THE PRESIDENT: Anyhow, the document doesn't say anything about it.

FLOTTENRICHTER KRANZBÜHLER: The document says nothing about it.

THE PRESIDENT: The Tribunal doesn't think you ought to make statements of that sort without any evidence; and at the moment you are dealing with a document which doesn't contain any evidence of the fact.

FLOTTENRICHTER KRANZBÜHLER: May I perhaps read Document Number Dönitz-4?

THE PRESIDENT: It is Dönitz-3, isn't it?

FLOTTENRICHTER KRANZBÜHLER: I have already come to Dönitz-4. I had read from Dönitz-3. I shall now read from Dönitz-4 the entries for 17 April 1939:

> "Commander of U-boats receives instructions from Naval Operations Staff to try out Base North. Naval Operations Staff considers the trying out of the base by *U-36* due to sail within the next days, highly desirable. Supply goods for tanker *Phoenizia* in Murmansk going with fishing steamer to Murmansk on 22 November."

It seems to me that this entry very clearly shows that that could have happened only in accord with the Soviet Union. Furthermore, I want to show that considerations as to bases . . .

THE PRESIDENT: Wait a minute. Dr. Kranzbühler, the Tribunal thinks you oughtn't to make these observations on these documents which really don't support what you are saying. Document Number 3, for instance, doesn't bear any such interpretation, because it refers to attacks which it was suggested should be made against ships coming from Russian ports, in Paragraph 2. And equally the other document you referred to, Dönitz-4, on Page 5, doesn't bear the interpretation which you are putting upon it.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I am afraid that the contents of both documents have been presented too quickly by me. For anyone who is familiar with such war diaries, many things are self-evident which otherwise are not so easy to understand.

Document Dönitz-3 states in that part which I have read that possibilities for the establishment of a Base North exist. These possibilities can be only political possibilities, because one can establish a base in a foreign country only if that country agrees. Document Dönitz-4 shows that the base in question is Murmansk and that this base is being tried out with a supply ship, a fishing steamer, and a U-boat. That convincingly shows in my opinion . . .

THE PRESIDENT: The objection the Tribunal was raising was to the statement by you that the Soviet Union had agreed, and these documents do not bear out any such statement.

FLOTTENRICHTER KRANZBÜHLER: I am of the opinion that in Document Dönitz-4 that can clearly be seen. It is not possible . . .

COL. POKROVSKY: I definitely protest against the fact that, apart from what has been stated in the documents, certain unfounded conjectures or assertions have been made with a view to interpreting the documents in the manner in which Dr. Kranzbühler has endeavored to interpret them from the initial stages of his defense. I do not belong to the category of fortune tellers and palmists. I cannot conjecture what hypothetical conclusions may be

drawn from one or another of the documents. I am a lawyer and I am accustomed to operate with documents such as they appear, and I am accustomed to operate with the contents of a document such as they are expressed.

I consider that the Tribunal has quite correctly expressed to the defense counsel the absolute impossibility of drawing the conclusions he is attempting to reach, and I would ask that counsel for the defense be reminded of his duty to limit himself exclusively to such interpretations as may be deduced from the document.

SIR DAVID MAXWELL-FYFE (Deputy Chief Prosecutor for the United Kingdom): Your Honor, I would be grateful if the Tribunal would consider a general point of procedure. We have a number of objections to a considerable number of Dr. Kranzbühler's documents. I have got out a short list grouping, as far as is possible, our objections, which I can hand to the Tribunal and, of course, to Dr. Kranzbühler, now. It is a matter for consideration by the Tribunal whether it would be useful to see that list before the Tribunal adjourns tonight, and maybe here tender certain observations of Dr. Kranzbühler upon them. Then the Tribunal might be able to give a decision with regard to certain of the documents before sitting again tomorrow and thereby save some time. I suggest that to the Tribunal for their consideration as perhaps the most profitable procedure under the circumstances.

THE PRESIDENT: Are you suggesting that at a certain point of time we should adjourn for the consideration of your list and then hear Dr. Kranzbühler on it?

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: That is what you suggest?

SIR DAVID MAXWELL-FYFE: Yes, Sir. I was going to explain my list, put my list to the Tribunal, and explain it; and then the Tribunal could hear Dr. Kranzbühler upon it and adjourn at whatever time it is suitable.

FLOTTENRICHTER KRANZBÜHLER: May I make a statement in that regard, Mr. President?

THE PRESIDENT: Certainly.

FLOTTENRICHTER KRANZBÜHLER: I do not agree with such a proceeding, Mr. President. Before this Tribunal I have said very little as defense counsel so far; but I am of the opinion that it is my turn now and that I have to be granted permission to submit my documents in that order in which I plan to and which I consider correct for my defense.

I ask the Tribunal just to imagine what would have happened if, before the presentation of their case by the Prosecution, I had

said that I should like to speak about the relevancy of the documents of the Prosecution. I believe that this comparison shows that I should not have thought of proceeding in this way. I shall try, before submitting my documents, to explain their relevancy to a greater extent than I have thought necessary until now. But I ask the Tribunal to grant that I present my case now and to limit the Prosecution to making their suggestions when I submit my documents individually.

SIR DAVID MAXWELL-FYFE: The inconvenience of that course, My Lord, is that I shall then be interrupting Dr. Kranzbühler every two or three documents and making a specific objection to an individual document, which will take a great deal of time. I thought it would be more convenient if I indicated to the Tribunal my objections to the documents in the usual way by classes rather than individually.

I put it to the Tribunal to rule on whatever method they think would be most convenient for them. The last thing I want is to interfere with Dr. Kranzbühler's presentation; but, on the other hand, the method that he suggests will mean individual objections, because, of course, an objection is useless if it is put in after Dr. Kranzbühler has developed the document. Or, if it is not useless, it is at any rate of very much less weight.

THE PRESIDENT: Dr. Kranzbühler, supposing that Sir David presents his objections to the documents now, whether in groups or in whatever way he likes, and you then answer him individually upon each document, pointing out the relevance in your view of each document; how does it harm you? The Tribunal will then consider your arguments and will rule upon them, and then you will know what documents the Tribunal has ruled out, and you can then refer to any of the other documents in any way you please.

The only object of it and the only effect of it is to prevent the Prosecution's having to get up and interrupt, put on the earphones, and take the time for an individual objection to each document to which they wish to object as it turns up. I cannot see that it can interfere with you in the least.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I have no objection to the Prosecution's stating their objections now. I merely wish to avoid my having to reply to each individual objection. If I am permitted to state my views when each individual document comes up, then I have no objection to the Prosecution's stating their objections now to individual documents.

THE PRESIDENT: Sir David, the Tribunal would like you to state now your objections to these documents. They will then allow Dr. Kranzbühler to proceed with his discussion of the documents,

answering your argument as to the admissibility of each document that you object to when he comes to it.

SIR DAVID MAXWELL-FYFE: If Your Lordship please. Will Your Lordship just allow me a moment to get my papers? I am afraid I have only the Prosecution's objections in English, but it may help those of the Tribunal who do not understand English to have the numbers, at any rate, in front of them.

My Lord, the first group are documents which the Prosecution submits have no probative value. These are D-53. My Lord, the "D" in this case stands for Dönitz Document Book 53, Page 99; and D-49, Pages 130 and 131; D-51 and D-69.

My Lord, the first of these, D-53, is a letter from a prisoner-of-war camp, purporting to be signed by 67 U-boat commanders and in purely general terms. The Prosecution submits that that is not helpful, either from its form or from its material.

My Lord, D-49, which is at Pages 130 to 131, is again in entirely general terms and contains no indication of the moral or legal basis for the opinion expressed.

D-51 and D-69 are both newspaper reports.

THE PRESIDENT: Wait a minute, Sir David. 130? I have not got a Page 131. Is it an affidavit, or was it called an affidavit?

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

THE PRESIDENT: "On the basis of the documents of the Navy Court archives at..."

Oh yes, I think the Document Book has got a bit out of order.

SIR DAVID MAXWELL-FYFE: Yes, My Lord, maybe so.

THE PRESIDENT: Is it a sworn affidavit by somebody or other?

SIR DAVID MAXWELL-FYFE: Yes, My Lord. 130 comes immediately before.

THE PRESIDENT: I have got it now, yes. 131 comes somewhere before 130.

SIR DAVID MAXWELL-FYFE: That is it, My Lord. It is an affidavit by a former fleet judge, and Your Lordship sees that the description which the Prosecution gives of it as being in entirely general terms is, I submit, justified by the wording of the document, and it is difficult to see the basis which the learned opponent seems to profess for his statements.

My Lord, D-51, Page 134, is an extract from the *Völkischer Beobachter* of March 1945, and the Prosecution submits that the topic on which it is is irrelevant to the matters developed against the Defendant Dönitz. Number 69 is another newspaper report from the same paper of 14 November 1939, giving a list of armed

British and French passenger ships. Now, My Lord, the second group which we developed are those irrelevant documents, D-5, D-9, D-10, D-12, D-13, D-29, D-48, D-60, D-74.

Now, My Lord, the first of these, D-5, on the subject of Norway, seeks to introduce by way of a footnote a summary of the documents which the Tribunal dealt with when considering the documents in the case of the Defendant Raeder, with regard to which the Tribunal expressed its doubts, although it allowed them to be translated. The Tribunal will remember that with regard to the Dönitz documents it was thought convenient to have them translated without a preliminary argument. Now, My Lord, the same argument applies to a footnote, to a speech of the Defendant Von Ribbentrop, a summary of documents which came into German possession long after the speech of the Defendant Ribbentrop was made. The Prosecution submits it is irrelevant.

And the documents 9, 10, 12, and 13 deal with the rescue of Allied survivors in the years 1939 to 1941 inclusive.

THE PRESIDENT: Oh, yes.

SIR DAVID MAXWELL-FYFE: My Lord, that last statement, "and all apparently unsworn," is an error. It ought to be that D-13 is apparently unsworn.

Now, My Lord, with regard to that the position is that whereas it is quite true that a non-rescue order was issued by the defendant before 27 May 1940, the really important period is round about 17 September 1942. It seemed to the Prosecution unnecessary to go into these details for the earlier period. There is no real doubt that there were some rescues. The only point which the Prosecution is putting against the defendant is that he did issue an order, which the Prosecution has proved, forbidding rescue when there was any danger.

THE PRESIDENT: What was the date you gave us, 17 November 1942?

SIR DAVID MAXWELL-FYFE: My Lord, the non-rescue order is before 27 May 1940. We cannot give the exact date, but we know from a reference in another order that it must have been before 27 May 1940. And the order with regard to the destruction of the crews of merchant ships is 17 September 1942.

Now, My Lord, the Document Number 29 contains four documents dealing with the evidence of the witness Heisig. The first purports to be an affidavit by a witness who speaks to the sort of statements the Defendant Dönitz usually made and does not remember what was said on the particular occasion referred to by the witness Heisig; and it contains a good deal of argument.

The second is a letter sent to counsel for the Defendant Dönitz, and, with the exception of one sentence, denying that the defendant spoke in the sense alleged by Heisig; the remainder of the statement which, of course, is unsworn, is either argument or is vague or irrelevant. The remaining two documents, both apparently unsworn, contain allegations against the character of the witness Heisig. The Tribunal will remember that no allegations were made against him; that there was no cross-examination in regard to his character when he gave his evidence. And the second deals with other lectures which are not those in question.

Now, My Lord, the next document, D-48, deals with the alleged good treatment of Allied prisoners in German Naval prisoner-of-war camps, on which subject no issue has been raised with this defendant. D-60, Page 209 deals with Italian- and French-declared danger zones, which, the Prosecution submits, has no relevance to those declared by the Germans. D-74 and D-60, Page 256, deal with the relationship between the British and French merchant marines and their respective navies; and the Prosecution submits that they are irrelevant as far as the British Navy is concerned, if they have any relevance cumulative of D-67.

Now, My Lord, the third group are details of the Contraband Control System and they are D-60, Pages 173 to 198; D-72; D-60, Pages 204 and 205 and Pages 219 to 225. My Lord, these documents deal with the details of the contraband control, what articles were contraband, declarations of different governments; and it is submitted that details of the contraband control are remote from the issues raised and entirely irrelevant. I do not think in the presentation against either of the Naval defendants questions of declarations of contraband were mentioned at all, certainly not in regard to the Defendant Dönitz; and, in the submission of the Prosecution, it's really introducing matters which are, I am sure, not helpful to the problems of this case.

The fourth group, which can only be described in very general terms, are allegations against the Allies. My Lord, the general objection I set out in the first paragraph is this: Those documents consist of various allegations against the Allies; they appear to have little or no relevance to the issues and, if submitted, might necessitate the Prosecution's seeking the facilities to rebut the allegations; in which case a large volume of evidence in rebuttal might be entailed.

Then I have isolated those which deal with allegations that the Allies did not pick up survivors; there are two: 43, 67; Pages 96 and 90. 31 and 32 deal with Allied attacks on German air-sea rescue planes; 33 accuses a Soviet submarine of sinking a hospital ship.

And three, Numbers 37, 38, and 40, the last being a newspaper report, allege that the Allies shot survivors. My Lord, the question of Allied treatment of survivors is dealt with exhaustively by extract from the German Naval Diary and, My Lord, that we are not objecting to because there it is important not as evidence of the facts stated but as evidence of the matters that had an effect on the German Naval Command. For that purpose I am quite ready that Dr. Kranzbühler should put them in and the Tribunal should consider them. And there is another document which deals with that point quite fully, and I am quite prepared to let that go in.

Then, My Lord, the remainder allege either ruthless actions or breaches of International Law by the Allies; and these are Number 19, Page 24, the Göring exhibit; Numbers 7 and C-21, Page 91; 47, Pages 120, 121, which is also a newspaper report; 52, 60, Pages 152 and 208; D-75, 81, 82, 85, and 89.

Now, as I understand the defense that is developed here—the allegation with regard to the order which we say sets out the destruction of survivors—it is not that it was a reprisal, but the defense is that the order did not mean destruction but merely meant non-rescue. On that basis it seems difficult, indeed impossible, to appreciate how these matters become relevant at all.

And similarly with regard to the order for shooting Commandos. The justification alleged for the order is set out in the order itself. I haven't heard any defendant develop any justification of that order in giving evidence before the Tribunal. Every one of the defendants so far has said this order was given by Hitler and "whether we approved of it or not we had to carry it out."

So that, in my submission, there isn't even the argument which is foreshadowed, that breaches of the laws and usages of war can be in certain occasions properly committed as reprisals. It is not put forward from that point of view; there is no admission here, as I understand the Defense, of breaches for which reprisal is the answer. Therefore, the Prosecution submits that these documents are also irrelevant.

My Lord, again I tried to put it as shortly as possible because I didn't want to occupy too much time, but I tried to correct them and describe those which seemed of greatest importance.

THE PRESIDENT: The Tribunal would like to know why this matter of the admissibility of these documents hasn't been argued before. In the other cases with which we have dealt, the question of the admissibility has been dealt with first of all by your offering your criticisms and objections, and then the defendant's counsel's being heard in reply. Then the Tribunal has ruled.

SIR DAVID MAXWELL-FYFE: My Lord, as I understand the position, we did put in objections to the documents and Dr. Kranzbühler suggested that he would very much prefer the documents to be translated and the objections taken at a later stage. And I was certainly informed that the Tribunal agreed with that and ordered the document to be translated.

THE PRESIDENT: That may be, for the purposes of translation. But that doesn't mean that they are necessarily admissible. And in most of the other cases, if not all, as you will remember, we have had an argument in open session in which you, or one other member of the Prosecution, have made your objections, and then the defendant's counsel has replied to those objections.

SIR DAVID MAXWELL-FYFE: My Lord, Dr. Kranzbühler has just handed—yes . . .

The ruling is:

"The Tribunal has ruled that the documents mentioned in your application may be translated, but that the question of their admissibility is to be decided later."

My Lord, I am afraid I am at fault there. It didn't occur to me, if I may be quite frank with the Tribunal, that I should have come before the beginning of the case Dönitz to make this argument. I am very sorry, and I must accept responsibility. I assumed, without real justification, that that meant the argument of admissibility would come at the beginning, or at some convenient time, in the case of Dönitz. I am very sorry, My Lord, and I can only express my regret.

My Lord, there is this excuse: We had three of the books on Saturday, and we only got the last one yesterday. Therefore, we really couldn't have done it before today, even if I had thought of it.

THE PRESIDENT: Dr. Kranzbühler, the Tribunal considers that in view of the large number of documents to which the Prosecution objects, it will be highly inconvenient to have you answer Sir David Maxwell-Fyfe's argument as you go through your documents; and therefore that you must answer now and deal with them in the way in which the other counsel have dealt with these objections to the admissibility of documents. Then the Tribunal will be able to consider the arguments that Sir David Maxwell-Fyfe has put forward and the arguments that you put forward in support of the documents.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I should like to point out that just because of the many objections which the Prosecution makes against the documents, I have for practical

purposes to present all my documents, for the line of thought pursued in presenting documentary evidence implies a definite order of presentation and I cannot take out one document or another without disturbing this line of thought. Therefore, I believe it would save considerable time if the Tribunal would permit me to answer the objections when I come to the particular document.

THE PRESIDENT: What difference could it make, assuming that the decision of the Tribunal is the same, whether you argue the matter now or whether you argue the matter afterwards? The documents which will remain, which will have been held to be admissible, will be the same. Therefore, there is no difference. I can't see any argument in favor of what you are saying.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, my documentary material, exactly like that of the Prosecution, is organized with a definite purpose in mind and according to a definite idea. If, of the 50 documents which are contained in my documentary material, I have to argue about 40, then 10 are lacking. Therefore, it seems to me proper for me to discuss all 50, in the order in which I intended to submit them to the Tribunal.

If the Tribunal is of the opinion that the reasons given for the relevancy of the different documents are not sufficient, then the objectionable document can be withdrawn or refused. However, it seems expedient to me that I present my arguments in the order which I have been intending to follow, and not in the order in which the Prosecution is now making its objections. That defeats my purpose and disturbs my line of thought and, as defense counsel, I believe it is my task to present my own line of thought and not to reply to the line of thought pursued by the Prosecution or to their objections.

THE PRESIDENT: Well, if that is so, then you can present your argument upon the relevancy of the documents in the order in which they come.

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: But you have to do it now.

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President.

THE PRESIDENT: You can begin with D-5, which is the first, and then go on with D-9 and D-10; take them in the order in which they stand.

Dr. Kranzbühler, the Tribunal doesn't see any reason why you should be dealt with in a different way from which the other defendants have been treated. Therefore, they think that you ought to be prepared to deal with these documents in the way in which they are grouped here. They would prefer that you should

deal with them now, if you can deal with them in a reasonably short space of time. Then they will be able to determine the question of which documents shall be admitted during the adjournment. Otherwise, they will have to adjourn tomorrow for a consideration of that matter, which will still further hold up the trial.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, of course, I can make general statements as to the groups which the Prosecution has referred to, but I cannot refer to the individual documents with the necessary detail to establish their relevancy unequivocally. That is impossible for me, confronted as I am by a list which I have not seen before. Therefore I should like to ask, if I am to give reasons for each individual document now, that I be given an opportunity to do that tomorrow morning. However, if the Tribunal wishes only to hear general remarks about the groups, I can do that right now.

THE PRESIDENT: Very well, Dr. Kranzbühler. The Tribunal will adjourn now, and we will hear you upon these documents at 9:30 tomorrow morning.

FLOTTENRICHTER KRANZBÜHLER: In open session, Mr. President?

THE PRESIDENT: In open session, certainly, yes.

[The Tribunal adjourned until 8 May 1946, at 0930 hours.]

ONE HUNDRED AND TWENTY-FOURTH DAY

Wednesday, 8 May 1946

Morning Session

MARSHAL: May it please the Tribunal, the report is made that Defendant Schirach is absent.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, with the permission of the Tribunal, I shall now state my opinion on the documents to which the Prosecution has objected.

Before I refer to the individual documents, I should like to say two things concerning the groups.

First: I ask the Tribunal to recall that in general questions on naval warfare I also defend Admiral Raeder. I already mentioned, when I first applied for documents, that all the charges against naval warfare cannot be dealt with separately as concerning Dönitz or Raeder; therefore Dr. Siemers and I agreed that I should deal with these charges together. I ask the Tribunal in evaluating the question to take into consideration whether the charges are relevant.

Second: A large number of the objections which the Prosecution has made are directed against the fact that the war measures of the Allies are mentioned in the documents. I believe that I have been completely misunderstood especially in this field. I am not interested and it is not my intention to disparage any war methods, and I shall demonstrate later in detail that the documents are not suitable for this. But I should like to state from the beginning that I want to show with these documents what naval warfare was really like. I could not demonstrate this by showing only the German methods; but I also have to submit to this Tribunal the methods of the Allies in order to prove that the German methods, which are similar to the Allies' methods, were legal. The Tribunal has even recognized this to be correct by approving the use of British Admiralty orders and an interrogatory of the Commander-in-Chief of the American Navy, Admiral Nimitz.

I am very grateful that these documents were approved; and my own documents in this field are along the same line.

I shall now refer to the individual documents against which objections have been raised; first to the Document Dönitz-5, which is in Document Book 1, Page 7.

THE PRESIDENT: Dr. Kranzbühler, the Tribunal has examined all these documents; so I think you can deal with them as far as possible in groups.

FLOTTENRICHTER KRANZBÜHLER: Very well.

THE PRESIDENT: If possible, follow the order of Sir David Maxwell-Fyfe.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, it will not be possible for me to follow the order of Sir David, because then I shall have to return repeatedly to the line of ideas which I have already mentioned. I believe it will facilitate and speed up the proceedings if I form groups according to the order in which I intended to present them; and I should like to remind the Tribunal that that was expressly approved for me yesterday.

THE PRESIDENT: Dr. Kranzbühler, it would be very much more convenient to the Tribunal if you followed the order in the groups. But if you find that impossible, the Tribunal would not make it a matter of an order.

FLOTTENRICHTER KRANZBÜHLER: I should be very grateful, Mr. President, if I could keep the order which I had prepared. It corresponds to the order of Sir David.

THE PRESIDENT: Very well.

FLOTTENRICHTER KRANZBÜHLER: Concerning the question of aggressive war, I have another document to submit which is Dönitz-5. It is an excerpt from *Documente der Deutschen Politik,* and concerns the question of bases in Norway. I consider this document relevant because it shows that on the part of the British Admiralty an interrogatory was prepared on the question of the necessity of such a base, which corresponds exactly to the one with which the Prosecution has charged Admiral Dönitz in Document GB-83 as proof for aggressive war.

Thereby I wish to say that the answers on such interrogatories have nothing to do with any considerations concerning an aggressive war, which a subordinate office could not even make. The document is in Group 2 of Sir David's classification.

THE PRESIDENT: Are you saying that the footnote stands on the same footing as the other part of the document?

FLOTTENRICHTER KRANZBÜHLER: The footnote is the essential part for me, Mr. President. I had the other part copied only to keep the connection with the footnote.

THE PRESIDENT: Well, who wrote the footnote? Doesn't the footnote represent information which was not before the German Admiralty at the time?

FLOTTENRICHTER KRANZBÜHLER: No, no.

THE PRESIDENT: Well, does the footnote state that it was before the German Admiralty at the time?

FLOTTENRICHTER KRANZBÜHLER: No, Mr. President. The footnote was not known to the German Admiralty at the time.

THE PRESIDENT: That is what I said; the footnote was not known to the German Admiralty. Who wrote it?

FLOTTENRICHTER KRANZBÜHLER: The footnote is part of this document, which can be found in the collection *Dokumente der Deutschen Politik* . . .

THE PRESIDENT: Is the Defendant Ribbentrop the author of it?

FLOTTENRICHTER KRANZBÜHLER: No, Mr. President. The *Dokumente der Deutschen Politik* are an official collection, and the footnotes have been written by the editor of that collection on the basis of official material.

THE PRESIDENT: Yes, I see.

FLOTTENRICHTER KRANZBÜHLER: Now I come to the documents concerning naval warfare in general. A large part of those are in Sir David's Group 3. The first document is Dönitz-60, on Page 152. It concerns an American note of 6 October 1939, and is in connection with the Document Dönitz-61, to which the Prosecution has not objected. It is in Volume III of the document book, Mr. President. Volume III, Page 152. This document is an American reply to the document which you will find two pages before this, on Page 150. Both documents deal with the warning of neutral nations against suspicious actions of their merchant vessels. The question is relevant in respect to Exhibit GB-193 of the Prosecution. In this document a charge is made against an order that ships which act suspiciously—that is, proceed without lights—should be sunk.

The next document is from Sir David's Group 1, Dönitz-69, on Page 170, in Book 3. It is an excerpt from several copies of the *Völkischer Beobachter* of November and December 1939. In these copies are published lists of armed British and French passenger ships. This document also is in connection with a preceding document and the one following. All these documents deal with the question of treatment of passenger ships by the naval warfare command.

THE PRESIDENT: I think you had better give the numbers of the documents. You said the next document and the one before it. I think you had better give the numbers of the documents.

FLOTTENRICHTER KRANZBÜHLER: Yes. That is Document 69, Mr. President, Dönitz-69, and it is on Page 170, in Book 3.

THE PRESIDENT: Yes, I know it is, but you said something about documents that were akin, or some words to that effect, to the documents next to it.

FLOTTENRICHTER KRANZBÜHLER: It is in relation to Dönitz-68, on Page 169 of the document book.

THE PRESIDENT: Was that objected to?

FLOTTENRICHTER KRANZBÜHLER: No.

THE PRESIDENT: Very well, then, you need not bother with it.

FLOTTENRICHTER KRANZBÜHLER: I only wanted to show, Mr. President, that this document is only part of the proof about the treatment of passenger ships, and should prove that the German press had warned against the using of armed passenger ships. The next documents objected to by the Prosecution concern Group 3, "The Contraband and Control System." These are the documents Dönitz-60, from Page 173 to Page 197 of the document book, and I should like to form three groups of these.

The first group, from Page 173 to Page 181, concerns the question of contraband. I consider this question relevant because Document GB-191 has stated that the German U-boats sank a large number of Allied ships while these ships were on a legal merchant trip. The development of rules against contraband will show the Tribunal that from 12 December 1939 on, a legal import to England no longer existed but actually only contraband. These documents concerning contraband are important, furthermore, for the German point of view, which became known under the slogan of "Hunger Blockade" and which played an important part in all German deliberations about the conduct and the intensification of naval warfare. The documents contain in detail the German contraband regulations, the British regulations, and two German statements concerning these contraband regulations.

The next group is Dönitz-60, from Page 183 to Page 191. That concerns the regulations about putting into control ports; that is to say, the British Admiralty removed the control over neutral merchant shipping from the high seas into certain British ports. This group is also relevant in connection with Exhibit GB-191 because in this document the German Naval Operations Staff is accused of carrying out war measures against England without consideration of the danger to neutrals. The group which I have dealt with shows that it was not possible for the British Admiralty either to take war measures without endangering the neutrals, because, by the establishment of control ports, the neutrals were forced into German zones of operations and thereby, of course, endangered. This danger was confirmed by the neutrals themselves, and the documents on Pages 186 to 189 will prove this.

An excerpt from the document of the Prosecution GB-194 on Page 198 belongs to that same group. It contains a renewed American protest against the control ports.

The third group goes from Page 192 to 197, also Dönitz-60, and is concerned with the question of an export embargo. This export blockade was declared against Germany in an Order in Council of 27 November 1939. This measure is important in the question of legal trade because thereby legal export was no longer possible either. The export blockade therefore is a basis for the total blockade which was later declared by Germany against England. Since the Exhibit GB-191 disputes the legality of a total blockade I must prove the basic grounds and also the export blockade.

The next document objected to is Dönitz-72 on Page 185. It deals with a note by Great Britain to Belgium of 22 September. In this note the British Government state that they will not tolerate any increase of trade between Belgium and Germany. I use it as evidence for the fact that the economic pressure which can be seen from this note was a natural and accepted means of warfare. This question is relevant concerning the document of the Prosecution, Exhibit GB-224. There on Page 6 under heading (c) it is stated that Germany would necessarily have to exert economic pressure on the neutrals, and these statements were submitted by the Prosecution as measures contrary to international law.

The next group contains the following documents: Dönitz-60, Page 204; Dönitz-72, Page 207; Dönitz-60, Page 208; Dönitz-60, Page 209; and Dönitz-75, Page 218. All of these documents concern the development of German zones of operation and the recognition of the zones of operation which were declared by the opponents. These documents are relevant for the question of the treatment of neutrals. In Exhibit GB-191 the charge was made against the Naval Operations Staff that without any consideration it had given the order to torpedo neutral ships. My evidence shall prove that that happened only in those areas which the neutrals had been warned against using and that this is a permissible measure of warfare, as shown also by the practices of the enemy.

I should like to refer individually to two documents which concern the practices of the opposing side. Dönitz-60, Page 208, concerns the statement by Mr. Churchill of 8 May 1940 regarding the torpedoing of ships in the Jutland area. This document and the next one, Dönitz-60, Page 209, I wanted to put to a witness. Dönitz-60, Page 209, concerns a French statement about a danger zone near Italy. I am using both documents as evidence for the practical state of naval warfare and should like to discuss them with a witness. It goes without saying that the methods of the enemy also had some influence on German practices.

The next group contains documents Dönitz-60, Pages 219, 222, and 224. They deal with the British system of navicerts. The navicerts, as can be seen from these documents, were certificates which all neutral ships had to get from the British Consulate before they could put to sea. Ships which refused to use navicerts were confiscated. The navicert system is relevant in two respects.

First, it is mentioned in the German statement concerning the total blockade against England on 17 August 1940 as one reason for that blockade. Secondly, from the German point of view it was a nonneutral act on the part of the neutrals if they submitted to that system. This question plays a considerable part in determining to what extent Germany herself from that time on took consideration of neutrals in the zones of operations. Finally, the navicert system shows the development of an entirely new naval warfare law, and that is a very important subject for me.

The next document is Dönitz-60, Page 256. It is a French decree of 11 November 1939 concerning the creation of insignia for the crews of merchant ships who could be mobilized. This document is relevant for the question of whether the crews of merchant ships at that stage of the war should be considered combatants or noncombatants. The details of the decree seem to me to show that they would have to be considered combatants.

With the two following documents I should like to object to the probative value of the document of the Prosecution, Exhibit GB-191. This concerns my Documents Dönitz-81, Page 233, and Dönitz-82, Page 234. I had said that these two documents would dispute the probative value of the Document GB-191. That is the report of the British Foreign Office about German naval warfare. On Page 1 this report attacks Article 72 of the German Prize Regulations in which it states that ships can be sunk if they cannot be brought into port. Document GB-191 says that this is contrary to the traditional British conception.

My Document Dönitz-81 shows the sinking of the German freighter *Olinda* by the British cruiser *Ajax* on the first day of the war. It is only one example to show that the statement made in the report of the British Foreign Office, according to which the British fleet had not sunk ships if they could not or would not bring them to port, is incorrect.

In the same report of the British Foreign Office, German U-boats are accused of never differentiating between armed and unarmed merchant ships. Later I shall submit to the Court the orders concerning armed and unarmed merchant ships.

By my next document I merely wish to defend the U-boats against having each mistake interpreted as bad intent. Therefore, in Dönitz-82, I submit a statement by the British Foreign Office

which confirms that it is extremely difficult, if not impossible, in some cases to distinguish between armed merchant ships and unarmed merchant ships.

The next document, Dönitz-85, Page 242, contains a statement by the American Secretary of the Navy, Mr. Knox, concerning the question of keeping secret the sinking of German U-boats by American naval forces. For me it is essential in connection with the document of the Prosecution, Exhibit GB-194. In this document the measures which the naval war staff took to keep secret the sinkings by U-boats, that is, using as a pretense the fiction of sinking through mines, are presented as fraudulent. I should like to give this as an example that during a war military measures can naturally be kept secret, but that that is no proof for or against their legality.

The next document is Dönitz-89, on Page 246. It is a list drawn up by the Naval Operations Staff of violations of neutrality committed by the United States from September 1939 to 29 September 1941. The document is essential to counter the document of the Prosecution, Exhibit GB-195, which contains an order from Adolf Hitler of July 1941 in which it is stated that in the future even the merchant ships of the United States must be treated within the German zone of blockade in the same manner as all other neutral ships, that is to say, they should be sunk.

The Prosecution has interpreted this order as proof of a cynical and opportunistic conduct of U-boat warfare by Admiral Dönitz. I wish to show, by submitting this list, that from the German point of view it was completely understandable and is justifiable if in the summer of 1941 one did not grant the United States a better position than any other neutral.

Now I come to the subject of the treatment of shipwrecked survivors. These documents are in Volume I of the document book. The first document, Dönitz-9, on Page 11, offers a description of over-scrupulous measures taken by German U-boats to save survivors in September and October 1939. This is essential for Admiral Dönitz . . .

THE PRESIDENT: There must surely be a group of these, is there not? Haven't you got a number of documents which deal with shipwrecks?

FLOTTENRICHTER KRANZBÜHLER: Yes, there are a number of documents.

THE PRESIDENT: Can you not deal with them all together?

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President, I can assemble them. They are Documents Dönitz-9, Page 11, Dönitz-10, Page 12, Dönitz-12, Page 18, and Dönitz-13, Pages 19 to 26, and Page 49, and Dönitz-19 on Page 34. All these documents

are related to Exhibit GB-196 of the Prosecution. That is an order from the winter of 1939-1940 in which the rescue measures of U-boats are limited. Sir David objected to that group that it was not important if, after this order of the winter 1939-1940, rescues were still carried out. I cannot share this opinion. If the Prosecution accuses Admiral Dönitz of having given an order about the limitation of rescue measures in the winter of 1939-1940, then it is essential to point out for what reasons such an order was issued and what practical consequences it had in fact. It is my assertion that that order can be traced, first, to the fighting conditions of the U-boats along the British coasts, and second, to over-scrupulous rescue measures taken by the commanders. The order did not prohibit measures of rescue generally, and that will be shown by the statements made by the commanders, which I have submitted under Dönitz-13.

THE PRESIDENT: Is it possible for you to give us a page where we can find these GB documents? For instance, GB-196.

FLOTTENRICHTER KRANZBÜHLER: Yes. It is in the British document book on Page 33. In the document book of the Prosecution, Mr. President.

THE PRESIDENT: GB-195?

FLOTTENRICHTER KRANZBÜHLER: Page 32, Mr. President.

THE PRESIDENT: Thank you.

FLOTTENRICHTER KRANZBÜHLER: I should like to state my position on a formal objection. Some of these statements are not sworn statements. I refer to Article 19 of the Charter, according to which the Tribunal is to use all matters of evidence which have probative value. I believe that a written report by an officer about his activity as commanding officer has probative value, even if it is not sworn to. A report of this kind before a German naval court would be accepted in evidence without question.

The last document in this group, Dönitz-19, Page 34, concerns the document of the Prosecution, Exhibit GB-199. It is a radio message on Page 36 of the British document book of the Prosecution. It concerns a radio message which the U-boat commanded by Kapitänleutnant Schacht received from Admiral Dönitz, and deals with the rescue or nonrescue of Englishmen and Italians.

Document Dönitz-19 is a log book of Schacht's U-boat and shows, first, the armament and crew of the *Laconia,* whose crew is the one in question, and second, it explains why comparatively few of the numerous Italians and comparatively many of the less numerous Englishmen were rescued. The events were known to Admiral Dönitz from radio messages.

Document Dönitz-29 . . .

THE PRESIDENT: Dr. Kranzbühler, as I told you, the Tribunal has read all of these documents and examined them, and therefore it isn't necessary for you to go into them as a small group, and it isn't necessary for you to go into each document, if you will indicate the nature of the groups.

FLOTTENRICHTER KRANZBÜHLER: Then I should like to mention the Documents Dönitz-29 on Pages 54 to 59 of the document book; Dönitz-31, Page 64; Dönitz-32 on Page 65; Dönitz-33 on Page 66; Dönitz-37 on Page 78; Dönitz-38 on Page 80 and Dönitz-40 on Page 86; these documents are also concerned with the subject of survivors. Dönitz-29 is concerned with a statement of the witness Heisig.

The Prosecution has declared that I could not question the character of the witness Heisig because I had not made that point during the cross-examination of Heisig. In this connection I wish to state that in my opinion I attacked the credibility of Heisig during the cross-examination as far as it was possible at the time. I knew of the existence of that witness only three days before he appeared here.

THE PRESIDENT: Dr. Kranzbühler, you are now proceeding to deal with each document. You have given us quite a number of documents which all fall in this group, of the treatment of shipwrecks and we have already seen those documents and therefore, we can consider them as a group. We do not need to have these details about the question of the credibility of Heisig, which is already before us.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I believe it is very difficult to judge the relevancy of documents if I am not permitted to say what the connection is. For instance, the next three documents, Dönitz-31, 32 and 33, are related to GB-200. That is an order by the Flag Officer of the U-boats dealing with the treatment of so-called rescue ships. The Tribunal will recall that the Prosecution has stated it did not object to the order as such with reference to the sinking of rescue ships, but only to the tendency to kill the survivors also by sinking rescue ships.

My documents pertaining to this issue are to show that thus they apply moral standards which do not exist in wartime. I wish to show this comparison with the sea rescue planes. The sea rescue planes were rightfully shot down by the British Air Force, because there was no agreement which prohibited that. The British Air Force was therefore naturally not kept from shooting down rescue planes by moral consideration, if international law permitted it; and we have exactly the same point of view concerning the rescue ships.

In the case of the sinking of the steamer *Steuben,* I should like to correct an error. That is Document Dönitz-33. It does not deal,

as Sir David mentioned yesterday, with the sinking of a hospital ship by a Russian U-boat, but it concerns the sinking of a German transport ship which carried wounded. This sinking was, therefore, completely justified and I would like to show with this document that the Naval Operations Staff did not for a moment consider it unjustified. I believe, Mr. President, that I shall have to speak in more detail about the Documents Dönitz-37, 38, and 40, for it is precisely these documents which have been objected to by the Prosecution, because they show the conduct of the Allies in certain war measures.

THE PRESIDENT: Dr. Kranzbühler, as I have told you more than once, the Tribunal does not wish to hear you on each individual document. We have already considered the documents and we want you to deal with them in groups. You have already given us the documents in a group and have indicated to what subject they relate.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, may I at least mention the documents of the Prosecution to which my documents refer?

THE PRESIDENT: Yes, certainly.

FLOTTENRICHTER KRANZBÜHLER: Dönitz-37 refers to a document of the Prosecution, Exhibit GB-638. That is the statement by Admiral Dönitz concerning the case of the *Athenia*. At the end of that statement the question of the punishment of the U-boat commander is mentioned and the Prosecution apparently accuses Admiral Dönitz of not punishing the commander except in a disciplinary manner. I want to prove with this Document Dönitz-37 that a commanding officer will tolerate certain war measures once even if they were not correct or at least partly not correct.

Dönitz-38 is in connection with Document Dönitz-39, which has not been objected to by the Prosecution. It brings out only one detail from the Document Dönitz-39. This document states the attitude of the Naval Operations Staff to alleged reports about the Allies' firing on survivors and similar incidents. By Dönitz-38 I only intend to show that the very careful attitude of the Naval Operations Staff was not based on lack of proof for they even had affidavits to prove it, and in spite of that rejected any possibility of reprisals.

Dönitz-40 is in connection with Document Dönitz-42 which I submitted and against which no objection has been raised. In this document quite sober considerations are raised as to whether survivors could be fired on or not. I should like to show that such considerations perhaps appear inhumane and impossible after a war, but that during war such questions are examined and in certain cases are answered in the affirmative, according to military necessity.

The next two documents, Göring-7, on Page 89, and C-21, on Page 91, deal with the document of the Prosecution, Exhibit GB-205. That was a radio message concerning the sinking of an Allied sailing cutter. GB-205 is on Page 53 of the Prosecution's document book. The Prosecution in connection with this document has accused our naval warfare command of trying to terrorize the crews of neutral ships. Both my documents, Göring-7 and C-21, give only a few examples to the effect that that terrorizing is nothing illegal but that naturally each belligerent in taking military measures considers the psychological effect of these measures on the enemy.

The next group is Document Dönitz-43, on Page 95; Dönitz-90, on Page 258, and Dönitz-67, on Page 96. They all deal with the subject of whether a ship is obliged to carry out rescues if this would endanger the ship itself, and relates to the document of the Prosecution, GB-196 on Page 33 of the document book of the Prosecution and GB-199 on Page 36 of the Prosecution's book. They show first the methods of the British navy...

THE PRESIDENT: Dr. Kranzbühler, you have told us the subject they relate to. That is to say, they relate to the subject whether a ship is obliged to rescue if in danger, and that, you say, is an answer to GB-196 and 199. Why should you tell us anything more than that?

FLOTTENRICHTER KRANZBÜHLER: If that is sufficient, then I shall proceed, Mr. President. The last document in this group is Dönitz-53, Page 99. It is a statement signed by some 60 U-boat commanders from an English prisoner-of-war camp, and it deals with the fact that they never received an order to kill survivors. The Prosecution objected to it because it was considered too general and was not sworn to. I believe that it contains a very concrete statement concerning the alleged order for destruction. Furthermore, it is an official report by the German commanders as prisoners of war to their superior, the English camp commandant; and I received it through the British War Office. I request the Tribunal particularly to approve this document, because it has a high probative and moral value for myself and for my client.

The last group of the documents objected to comes under the heading "Conspiracy." It is in the document book, Volume II, Mr. President, Dönitz-47, and relates to Exhibit GB-212. Dönitz-47 is on Page 120. The document of the Prosecution is Exhibit GB-212. On Page 75 an incident is mentioned, namely, that Admiral Dönitz approved the fact that a traitor in a prisoner-of-war camp was done away with. Dönitz-47 will show that the removal of traitors is an emergency measure which is approved by all governments in time of war.

Dönitz-48 deals with the subject of the treatment of prisoners of war. It is related to the document of the Prosecution, Exhibit GB-209. Dönitz-48 is on Page 122 in my document book, and GB-209 is on Page 68 of the document book of the Prosecution. In connection with GB-209, which deals with the possibility of abandoning the Geneva Convention, the Prosecution accuses Dönitz of wanting to risk the lives of 150,000 American and over 50,000 British prisoners of war without scruple. In my opinion, it is not sufficient merely to dispute such a statement which is made by the Prosecution, but I must prove that those prisoners of war for whom Admiral Dönitz himself was responsible were not only treated according to international law but in an exemplary manner and as can be seen from a British statement, which is contained in evidence, "with fairness and consideration."

The next document Dönitz-49 deals with the treatment of native populations. It is on Page 130. It is relevant to the documents of the Prosecution GB-210, Prosecution document book Page 69, and GB-211, Prosecution document book Page 72. According to these two documents of the Prosecution Admiral Dönitz is connected with the conspiracy for committing crimes against the native populations of occupied territories. Here again, I would like to show that in that sector for which he was personally responsible, he did everything necessary to protect the inhabitants of the occupied territories. Therefore I have submitted evidence concerning the sentences imposed by the naval courts for the protection of the inhabitants, which have been confirmed by Admiral Dönitz even in the case of death sentences against German soldiers.

The Prosecution states that this document is also very general. The document has an appendix with about 80 individual examples of sentences. I have not included these examples, in order to save the translators this work; but if the Tribunal considers it necessary, I will certainly have that appendix translated.

The last group contains Dönitz-51, on Page 134, and Dönitz-52, on Page 135. They are in connection with the Prosecution's Document GB-188, on Page 10 of the British document book. That is the speech made by Admiral Dönitz on the occasion of Adolf Hitler's death. In connection with that document and another, the Prosecution has accused him of being a fanatical Nazi and, as such, of prolonging the war at the expense of the men, women, and children of his country. The very documents of the Prosecution, however, show that he considered a delay of capitulation necessary in order to make it possible to get as many people as possible from the East to the West and thus bring them to safety.

The Documents Dönitz-51 and Dönitz-52 will prove that in fact many hundreds of thousands, if not millions, of German people were brought to safety during these last weeks of the war.

THE PRESIDENT: We shall see that from the documents presumably. That is part of the details in the documents, isn't it, what you say?

FLOTTENRICHTER KRANZBÜHLER: I do not need to say anything further about it, Mr. President.

THE PRESIDENT: Are these all the documents? Dr. Kranzbühler, the Tribunal is inclined to think that it would save time after the Tribunal has ruled upon these documents, if you called the Defendant Dönitz first. Would you be willing to do that?

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I was not prepared for it, but I am in a position to do so.

THE PRESIDENT: Well, the object of it of course is to try and save time, and the Tribunal thinks that in the course of the examination of the defendant a considerable number of these documents might possibly be dealt with in the course of direct and cross-examination.

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President. The difficulty, however, is that during the examination of Admiral Dönitz I should like to count on the knowledge of the contents of the documents; and I should also like to discuss some documents with him. But I do not know whether the Tribunal will approve these documents now or not.

THE PRESIDENT: But what I am suggesting is that the Tribunal should consider now the relevance of these documents, the admissibility of these documents, and then tell you—make a rule—as to what documents are admitted. You will then know what documents are admitted. Then you can call Admiral Dönitz and of course examine him with reference to the documents which are admitted; and as I have told you, the Tribunal has already looked at these documents. They will now reconsider them, in order to see whether they are admissible, and the Tribunal will in that way, to a large extent, be fully acquainted with the documents.

FLOTTENRICHTER KRANZBÜHLER: Yes, I agree to that, Mr. President. I will call Admiral Dönitz if the Tribunal deems it proper.

THE PRESIDENT: Dr. Kranzbühler, you have been dealing with a Document Dönitz-60, which contains a great number of pages to which you wish to refer. When we have ruled upon them you will have to give separate exhibit numbers to each one of the documents—to each one of the pages which we will rule are admissible and which you wish to offer in evidence.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, may I point out that this is one book. Dönitz-60 is one book. That is why I have not given it an exhibit number, because I submit it as one.

THE PRESIDENT: Yes, but it contains so many pages that it will be more convenient, will it not, to give each separate page a separate exhibit number?

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: It seems to relate to a great variety of subjects.

FLOTTENRICHTER KRANZBÜHLER: Yes, a collection of documents.

THE PRESIDENT: Now as you dealt with the various subjects in entirely different order than the way in which Sir David Maxwell-Fyfe dealt with them, I think it would be convenient if we heard anything he wants to say about it. Only if you do wish to say something, Sir David.

SIR DAVID MAXWELL-FYFE: Certainly, My Lord. My Lord, I have heard the Tribunal say that they have had an opportunity of examining the documents and therefore I propose to be extremely brief in any remarks I have to make; and may I make one explanation before I deal with the very few points?

My friend, Colonel Pokrovsky, wanted to make it clear—as I think it was clear to the Tribunal yesterday—that there had been no objection to Documents 3 and 4 because in these they deal with a secret base in the North which is only of importance for the attacks against wood transports from the North Russian ports. The objectionable matter, as I think the Tribunal pointed out, was introduced in a statement of Dr. Kranzbühler which has no foundation in the documents. Colonel Pokrovsky was very anxious that I should make that clear on behalf of the Prosecution.

My Lord, I think there are really only two points which I need emphasize in reply to the Tribunal. The first is on my Group 3, the details of the Contraband Control System. My Lord, I submit that on this there is an essential *non sequitur* in Dr. Kranzbühler's argument. He says that, first of all, the carrying of contraband by merchant ships, to carry his argument to its logical conclusion, would entitle a belligerent to sinking at sight. That, I submit, with great respect to him, is completely wrong; and it does not follow that because you establish certain rules and lists of contraband that the right to sink at sight is affected at all.

Similarly, his second point with regard to the British navicert system. That system was used in World War I and is a well-known system. But again, the essential *non sequitur* or absence of connection is this, that if a neutral goes to one of the control ports and

gets a navicert, that does not put that neutral into so un-neutral an act as to make it the equivalent of a ship of war, which is the position that my friend—that Dr. Kranzbühler—would have to take if that argument were to succeed.

His third division wishes to put in documents showing economic pressures on, for example, Belgium, with regard to the import of goods. The naval defendants are not being charged with economic pressure; they are charged with killing people on the high seas. Now again, I have dealt with it very shortly, and the Prosecution submits and takes the view very strongly that the whole of that documentary evidence is several steps removed from the issues in the case.

Now the second group of matters which I wanted to refer to. I can take as an example the document making several score of allegations of un-neutral acts against the United States. The case for the Prosecution on sinking at sight is that sinking at sight against various groups of neutrals was adopted as a purely political matter, according to the advantage or, when it was abstained from, the disadvantage which Germany might get from her relations with these neutrals. And it does not help in answering that allegation of the Prosecution. That is a matter of fact which can be judged, whether the Prosecution is right. It does not help on that to say that the United States committed certain nonneutral acts. If anything, it would be supporting the contention of the Prosecution that sinking on sight was applied arbitrarily according to the political advantages which could be obtained from it.

And the only other point—and again my friend, Colonel Pokrovsky, wishes me to emphasize it—is that these, the collection of unsworn statements, are of course in a very different position, from any legal standard, from reports made by officers in the course of their duty. Those are admissible in all military courts, probably in every country in the world. These are an *ad hoc* collection. They are not only unsworn but they are vague, indefinite, and insufficiently related to the order which is adhered to in the case of the Prosecution.

My Lord, I have tried to cut it very short, but I did want the Tribunal to appreciate that on all these groups and especially, if I may say so, on Groups 3 and 4, the Prosecution feels very strongly on this matter in the case. I am grateful to the Tribunal for giving me the opportunity of saying this.

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MARSHAL: If it please the Tribunal, the Defendant Streicher is absent from this session.

THE PRESIDENT: I will deal with the documents in the order in which they were dealt with by Fleet Judge Kranzbühler.

The Tribunal rejects Dönitz-5, Page 7 of the document book.
The Tribunal rejects Dönitz-60, Page 152.
The Tribunal allows Dönitz-69, Page 170.
The Tribunal rejects Dönitz-60, Pages 173 to 197.
The Tribunal rejects Dönitz-72, Page 185.
The Tribunal rejects Dönitz-60, Page 204.
It rejects Dönitz-74, Page 207.
It allows Dönitz-60, Page 208.
It rejects Dönitz-60, Page 209.
It rejects Dönitz-75, Page 218.
It rejects Dönitz-60, Page 219, Page 222 and Page 224.
It allows Dönitz-60, Page 256.
It rejects Dönitz-81, Page 233 and 234; 234 being Dönitz-82.
It rejects Dönitz-85, Page 242.
It rejects Dönitz-89, Page 246.
It allows Dönitz-9, Page 11, and Dönitz 10, Page 12.
It rejects Dönitz-12, Page 18.
It allows Dönitz-13, Pages 19 to 26, and Page 49.
It allows Dönitz-19, Page 34.
It allows Dönitz-29, Pages 54 to 59, leaving out—that is to say, not allowing—Page 58.
It rejects Dönitz-31, Page 64.
It rejects Dönitz-32, Page 65.
It rejects Dönitz-33, Page 66.
It allows Dönitz-37, Page 78.
It rejects Dönitz-38, Page 80.
It rejects Dönitz-40, Page 86.
It rejects Göring Number 7, Page 89.

With reference to the next exhibit, Page 91, the Tribunal would like to know from Fleet Judge Kranzbühler whether that is already in evidence or not. It is Page 91 in the Dönitz Document Book in English, Volume II, Page 91.

It is headed "C-21, GB-194."

FLOTTENRICHTER KRANZBÜHLER: That is an excerpt from a document which the Prosecution has submitted here and which is therefore already in evidence.

THE PRESIDENT: Very well, then; we need not be troubled about it.

The Tribunal rejects Dönitz-43, Page 95.

It allows Dönitz-90, Page 258.

It allows Dönitz-67, Page 96.

It allows Dönitz-53, Page 99.

It rejects Dönitz-47, Page 120.

It allows Dönitz-48, Page 122.

It rejects Dönitz-49, Page 131.

It rejects Dönitz-51 and 52, Pages 134 and 135.

That is all.

The Tribunal will adjourn today at a quarter to five and it will be sitting in closed session thereafter.

FLOTTENRICHTER KRANZBÜHLER: With the permission of the Tribunal, I call Admiral Dönitz as witness.

[The Defendant Dönitz took the stand.]

THE PRESIDENT: Will you state your full name?

KARL DÖNITZ (Defendant): Karl Dönitz.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The defendant repeated the oath in German.]

THE PRESIDENT: You may sit down.

FLOTTENRICHTER KRANZBÜHLER: Admiral, since 1910 you have been a professional officer; is that correct?

DÖNITZ: Since 1910 I have been a professional soldier, and an officer since 1913.

FLOTTENRICHTER KRANZBÜHLER: Yes. During the World War, the first World War, were you with the U-boat service?

DÖNITZ: Yes, from 1916.

FLOTTENRICHTER KRANZBÜHLER: Until the end?

DÖNITZ: Until the end of the war.

FLOTTENRICHTER KRANZBÜHLER: After the first World War, when did you again have contact with the U-boat service?

DÖNITZ: On 27 September 1935 I became the commanding officer of the U-boat Flotilla Weddigen, the first German U-boat flotilla after 1918. As an introduction to taking up that command, that is, in September 1935, I spent a few days in Turkey, in order to go there in a U-boat and to bridge the gap from 1918.

FLOTTENRICHTER KRANZBÜHLER: Thus from 1918 to 1935 you had nothing to do with U-boats?

DÖNITZ: No, nothing at all.

FLOTTENRICHTER KRANZBÜHLER: What was your rank when you went to the U-boat service in 1935?

DÖNITZ: I was a Fregattenkapitän.

FLOTTENRICHTER KRANZBÜHLER: What did the German U-boat service at that time consist of?

DÖNITZ: The U-boat Flotilla Weddigen, of which I became the commanding officer, consisted of three small boats of 250 tons each, the so-called "Einbäume." Besides, there were six somewhat smaller boats which were in a U-boat school, which was not under my command, for the purpose of training. Then there were afloat and in service perhaps another six of these small boats.

FLOTTENRICHTER KRANZBÜHLER: Who informed you of that command as C. O. of the U-boat flotilla?

DÖNITZ: Admiral Raeder.

FLOTTENRICHTER KRANZBÜHLER: Did Admiral Raeder on that occasion issue the order that the U-boat arm should be prepared for a specific war?

DÖNITZ: No. I merely received the order to fill in that gap from 1918, to train the U-boats for the first time in cruising, submersion, and firing.

FLOTTENRICHTER KRANZBÜHLER: Did you prepare the U-boats for war against merchant shipping?

DÖNITZ: Yes. I instructed the commanders as to how they should behave if they stopped a merchantman and I also issued an appropriate tactical order for each commander.

FLOTTENRICHTER KRANZBÜHLER: Do you mean to say that the preparation for war against merchantmen was a preparation for war according to Prize Regulations?

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: That is to say, the preparations were concerned with the stopping of ships on the surface?

DÖNITZ: The only instruction which I gave concerning the war against merchantmen was an instruction on how the U-boat should behave in the stopping and examining, the establishing of the destination and so on, of a merchantman. Later, I believe in the year 1938, when the draft of the German Prize Regulations came, I passed this on to the flotillas for the instruction of the commanders.

FLOTTENRICHTER KRANZBÜHLER: You developed a new tactic for U-boats which became known under the name "wolf pack tactics." What was there to these pack tactics, and did that mean anything in connection with the warfare against merchantmen according to the Prize Regulations?

DÖNITZ: The U-boats of all navies had so far operated singly, contrary to all other categories of ships which, by tactical co-operation, tried to get better results. The development of the "wolf pack tactics" was nothing further than breaking with that principle of individual action for each U-boat and attempting to use U-boats exactly in the same manner as other categories of warships, collectively. Such a method of collective action was naturally necessary when a formation was to be attacked, be it a formation of warships, that is, several warships together, or a convoy. These "wolf pack tactics," therefore, have nothing to do with war against merchantmen according to Prize Regulations. They are a tactical measure to fight formations of ships, and, of course, convoys, where procedure according to Prize Regulations cannot be followed.

FLOTTENRICHTER KRANZBÜHLER: Were you given the mission, or even obliged to prepare for war, against a definite enemy?

DÖNITZ: I did not receive such a general mission. I had the mission of developing the U-boat service as well as possible, as it is the duty of every front-line officer of all armed forces of all nations, in order to be prepared against all war emergencies. Once, in the year 1937 or 1938, in the mobilization plan of the Navy, my order read that, in case France should try to interrupt the rearmament by an attack on Germany, it would be the task of the German U-boats to attack the transports in the Mediterranean which would leave North Africa for France. I then carried out maneuvers in the North Sea with this task in mind. If you are asking me about a definite aim or line of action, that, so far as I remember, was the only mission which I received in that respect from the Naval Operations Staff. That occurred in the year 1936 or 1937. According to my recollection, that plan had been issued lest the rearmament of Germany, at that time unarmed, might be interrupted by some measure or other.

FLOTTENRICHTER KRANZBÜHLER: In the year 1939, then, was the German U-boat service prepared technically and tactically for a naval war against England?

DÖNITZ: No. The German U-boat service, in the fall of 1939, consisted of about thirty to forty operational boats. That meant that at any time about one-third could be used for operations. In view of the harsh reality the situation seemed much worse later. There was one month, for instance, when we had only two boats

out at sea. With this small number of U-boats it was, of course, only possible to give pinpricks to a great naval power such as England. That we were not prepared for war against England in the Navy, is, in my opinion, best and most clearly to be seen from the fact that the armament of the Navy had to be radically changed at the beginning of the war. It had been the intention to create a homogeneous fleet which, of course, since it was in proportion much smaller than the British fleet, was not capable of waging a war against England. This program for building a homogeneous fleet had to be discontinued when the war with England started; only these large ships which were close to completion were finished. Everything else was abandoned or scrapped. That was necessary in order to free the building capacity for building U-boats. And that, also, explains why the German U-boat war, in this last war, actually only started in the year 1942, that is to say, when the U-boats which had been ordered for building at the beginning of the war were ready for action. Since peacetime, that is in 1940, the replacement of U-boats hardly covered the losses.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution has repeatedly termed the U-boat arm an aggressive weapon. What do you say to this?

DÖNITZ: Yes, that is correct. The U-boat has, of course, the assignment of approaching an enemy and attacking him with torpedoes. Therefore, in that respect, the U-boat is an aggressive weapon.

FLOTTENRICHTER KRANZBÜHLER: Do you mean to say by that that it is a weapon for an aggressive war?

DÖNITZ: Aggressive or defensive war is a political decision and, therefore, it has nothing to do with military considerations. I can certainly use a U-boat in a defensive war because, in defensive war also, the enemy's ships must be attacked. Of course, I can use a U-boat in exactly the same way in a politically aggressive war. If one should conclude that the navies which have U-boats are planning an aggressive war, then all nations—for all the navies of these nations had U-boats, in fact many had more than Germany, twice and three times as many—planned aggressive war.

FLOTTENRICHTER KRANZBÜHLER: In your capacity as Flag Officer of U-boats, did you yourself have anything to do with the planning of the war as such?

DÖNITZ: No, nothing at all. My task was to develop U-boats militarily and tactically for action, and to train my officers and men.

FLOTTENRICHTER KRANZBÜHLER: Before the beginning of this war did you give any suggestions or make any proposals concerning a war against a definite enemy?

DÖNITZ: No, in no instance.

FLOTTENRICHTER KRANZBÜHLER: Did you do so after this war had started concerning a new enemy?

DÖNITZ: No, not in that case either.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution has submitted some documents which contain orders from you to the U-boats and which date from before the beginning of this war. An order for the placing of certain U-boats in the Baltic and west of England, and an order before the Norway action for the disposition of U-boats along the Norwegian coast. I ask you, therefore, when, at what time, were you as Flag Officer of U-boats, or from 1939 on as Commander of U-boats, informed about existing plans?

DÖNITZ: I received information on plans from the Naval Operations Staff only after these plans had been completed; that is to say, only if I was to participate in some way in the carrying out of a plan, and then only at a time necessary for the prompt execution of my military task.

FLOTTENRICHTER KRANZBÜHLER: Let us take the case of the Norway action, Admiral. When did you find out about the intention to occupy Norway, and in what connection did you receive that information?

DÖNITZ: On 5 March 1940 I was called from Wilhelmshaven, where I had my command, to Berlin, to the Naval Operations Staff, and at that meeting I was instructed on the plan and on my task.

FLOTTENRICHTER KRANZBÜHLER: I present you now with an entry from the War Diary of the Naval Operations Staff, which I will submit to the Tribunal as Dönitz Exhibit Number 6. It is on Page 8 of Document Book 1.

"5 March 1940: The Flag Officer of U-boats participates in a conference with the Chief of Staff of the Naval Operations Staff in Berlin.

"Object of the conference: Preparation of the occupation of Norway and Denmark by the German Wehrmacht."

Is that the meeting which you have mentioned?

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: In the case of Norway, or in the previous case of the outbreak of war with Poland, did you have the opportunity to examine whether the tactical instructions which you had to give to your U-boats led or were to lead to the waging of an aggressive war?

DÖNITZ: No, I had neither the opportunity nor indeed the authority to do that. I should like to ask what soldier of what

nation, who receives any military task whatsoever, has the right to approach his general staff and ask for examination or justification as to whether an aggressive war can evolve from this task. That would mean that the soldiers . . .

THE PRESIDENT: Dr. Kranzbühler, the Tribunal has itself to decide as a matter of law whether the war was an aggressive war. It does not want to hear from this witness, who is a professional sailor, what his view is on the question of law.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I believe my question has been misunderstood. I did not ask Admiral Dönitz whether he considered the war an aggressive war or not; but I asked him whether he had the opportunity or the task, as a soldier, of examining whether his orders could become the means for an aggressive war. He, therefore, should state his conception of the task which he had as a soldier, and not of the question of whether it was or was not an aggressive war.

THE PRESIDENT: He can tell us what his task was as a matter of fact, but he is not here to argue the case to us. He can state the facts—what he did.

FLOTTENRICHTER KRANZBÜHLER: Does one not also, Mr. President, have to allow a defendant to say what considerations he had or what considerations he did not have? What I mean is that the accusations of the Prosecution arise from this, and the defendant must have the opportunity of stating his position regarding these accusations.

THE PRESIDENT: We want to hear the evidence. You will argue his case on his behalf on the evidence that he gives. He is not here to argue the law before us. That is not the subject of evidence.

FLOTTENRICHTER KRANZBÜHLER: I shall question him on his considerations, Mr. President.

Admiral, in connection with the orders which you issued to the U-boats before the war or in connection with the orders which you issued before the beginning of the Norway action—did you ever have any considerations as to whether it would lead to aggressive war?

DÖNITZ: I received military orders as a soldier, and my purpose naturally was to carry out these military tasks. Whether the leadership of the State was thereby politically waging an aggressive war or not, or whether they were protective measures, was not for me to decide; it was none of my business.

FLOTTENRICHTER KRANZBÜHLER: As Commander of U-boats, from whom did you receive your orders about the waging of U-boat warfare?

DÖNITZ: From the Chief of the SKL, the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: Who was that?

DÖNITZ: Grossadmiral Raeder.

FLOTTENRICHTER KRANZBÜHLER: What were the orders which you received at the beginning of the war, that is, the beginning of September 1939, for the conduct of U-boat warfare?

DÖNITZ: War against merchantmen according to the Prize Regulations, that is to say, according to the London Pact.

FLOTTENRICHTER KRANZBÜHLER: What ships, according to that order, could you attack without previous warning?

DÖNITZ: At that time I could attack without warning all ships which were guarded either by naval vessels or which were under air cover. Furthermore, I was permitted to exercise armed force against any ship which, when stopped, sent radio messages, or resisted the order to stop, or did not obey the order to stop.

FLOTTENRICHTER KRANZBÜHLER: Now, there is no doubt that, a few weeks after the beginning of the war, the war against merchantmen was intensified. Did you know whether such an intensification was planned, and if you do, why it was planned?

DÖNITZ: I knew that the Naval Operations Staff intended, according to events, according to the development of the enemy's tactics, to retaliate blow for blow, as it says or said in the order, by intensified action.

FLOTTENRICHTER KRANZBÜHLER: What were the measures of the enemy and, on the other hand, what were your own experiences with the measures taken by the enemy which led to an intensification of action?

DÖNITZ: Right at the beginning of the war it was our experience that all merchantmen not only took advantage of their radio installations when an attempt was made to stop them, but that they immediately sent messages as soon as they saw any U-boat on the horizon. It was absolutely clear, therefore, that all merchantmen were co-operating in the military intelligence service. Furthermore, only a few days after the beginning of the war we found out that merchantmen were armed and made use of their weapons.

FLOTTENRICHTER KRANZBÜHLER: What orders on the part of Germany resulted from these experiences?

DÖNITZ: They first brought about the order that merchantmen which sent radio messages on being stopped could be attacked without warning. They also brought about the order that merchantmen whose armament had been recognized beyond doubt, that is, whose

armament one knew from British publication, could be attacked without warning.

FLOTTENRICHTER KRANZBÜHLER: This order concerning attacks on armed merchantmen was issued on 4 October 1939; is that right?

DÖNITZ: I believe so.

FLOTTENRICHTER KRANZBÜHLER: Was there a second order, soon after that, according to which all enemy merchantmen could be attacked, and why was that order issued?

DÖNITZ: I believe that the Naval Operations Staff decided on this order on the basis of the British publication which said that now the arming of merchantmen was completed. In addition, there was a broadcast by the British Admiralty on 1 October to the effect that the merchantmen had been directed to ram German U-boats and furthermore—as stated at the beginning—it was clear beyond doubt that every merchantman was part of the intelligence service of the enemy, and its radio messages at sight of a U-boat determined the use of surface or air forces.

FLOTTENRICHTER KRANZBÜHLER: Did you have reports about that from U-boats, according to which U-boats were actually endangered by these tactics of enemy merchantmen and were attacked by enemy surface or air forces?

DÖNITZ: Yes. I had received quite a number of reports in this connection, and since the German measures were always taken about 4 weeks after it had been recognized that the enemy employed these tactics, I had very serious losses in the meantime—in the period when I still had to keep to the one-sided and, for me, dangerous obligations.

FLOTTENRICHTER KRANZBÜHLER: By these obligations, are you referring to the obligation to wage war against merchantmen according to the Prize Regulations during a period when the enemy's merchant ships had abandoned their peaceful character?

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: Did you protest later against the directives of the Naval Operations Staff which led to an intensification of the war on merchantmen, or did you approve these directives?

DÖNITZ: No, I did not protest against them. On the contrary, I considered them justified, because, as I said before, otherwise I would have had to remain bound to an obligation which was one-sided and meant serious losses for me.

FLOTTENRICHTER KRANZBÜHLER: Was this intensification of the war against merchantmen by the order to fire on armed

merchantmen, and later the order to attack all enemy merchantmen, based on the free judgment of the Naval Operations Staff, or was it a forced development?

DÖNITZ: This development, as I have said before, was entirely forced. If merchantmen are armed and make use of their arms, and if they send messages which summon protection, they force the U-boat to submerge and attack without warning.

That same forced development, in the areas which we patrolled, was also the case with the British submarines, and applied in exactly the same way to American and Russian submarines.

FLOTTENRICHTER KRANZBÜHLER: If, on one side, a merchantman sends a message and opens fire, and on the other side the submarine, for that reason, attacks without warning, which side has the advantage of this development, according to your experience? The side of the merchantman or the side of the submarine?

DÖNITZ: In an ocean area where there is no constant patrolling by the enemy, by naval forces of any kind or by aircraft, as along the coast, the submarine has the advantage. But in all other areas the ship acquires the main attack weapons against a submarine, and the submarine is therefore compelled to treat that ship as a battleship, which means that it is forced to submerge and loses its speed. Therefore, in all ocean areas, with the exception of coastal waters which can be constantly controlled, the advantage of arms lies with the merchantman.

FLOTTENRICHTER KRANZBÜHLER: Are you of the opinion that the orders of the Naval Operations Staff actually remained within the limits of what was militarily necessary due to enemy measures, or did these orders go beyond military necessity?

DÖNITZ: They remained absolutely within the bounds of what was necessary. I have explained already that the resulting steps were always taken gradually and after very careful study by the Naval Operations Staff. This very careful study may also have been motivated by the fact that for political reasons any unnecessary intensification in the West was to be avoided.

FLOTTENRICHTER KRANZBÜHLER: Admiral, these orders we have mentioned were based at that time only on German experiences and without an accurate knowledge of the orders which had been issued on the British side. Now, I should like to put these orders to you; we now have information on them through a ruling of the Tribunal, and I should like to ask you whether these individual orders coincide with your experiences or whether they are somewhat different. I submit the orders of the British Admiralty as Exhibit Dönitz-67. It is on Page 163 in Document Book 3. As

you know, this is the Handbook of the British Navy of 1938, and I draw your attention to Page 164, to the paragraph on reporting the enemy.

DÖNITZ: There is no pagination here.

FLOTTENRICHTER KRANZBÜHLER: It is D. M. S. 3-I-55, the paragraph on radio. The heading is "Reporting the Enemy."

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: I will read the paragraph to you:

> "As soon as the master of a merchant ship realizes that a ship or aircraft in sight is an enemy, it is his first and most important duty to report the nature and position of the enemy by wireless telegraph. Such a report promptly made may be the means of saving not only the ship herself but many others; for it may give an opportunity for the destruction of her assailant by our warships or aircraft, an opportunity which might not recur."

Then there are more details which I do not wish to read, on the manner and method, when and how these radio signals are to be given. Is this order in accordance with your experience?

DÖNITZ: Yes. In this order, there is not only a directive to send wireless signals if the ship is stopped by a U-boat—that alone would, according to international law, justify the U-boat in employing armed force against the ship—but beyond that it is stated that as soon as an enemy ship is in sight this signal is to be transmitted in order that the naval forces may attack in time.

FLOTTENRICHTER KRANZBÜHLER: So this order is in accord with the experiences which our U-boats reported?

DÖNITZ: Entirely.

FLOTTENRICHTER KRANZBÜHLER: I shall draw your attention now to the Paragraph D. M. S. 2-VII, on Page 165, that is the paragraph on opening fire: "Conditions under which fire may be opened."

> "(a) Against enemy acting in accordance with international law.—As the armament is solely for the purpose of self-defense, it must only be used against an enemy who is clearly attempting to capture or sink the merchant ship. On the outbreak of war it should be assumed that the enemy will act in accordance with international law, and fire should therefore not be opened until he has made it plain that he intends to attempt capture. Once it is clear that resistance will be necessary if capture is to be averted, fire should be opened immediately.

"(b) Against enemy acting in defiance of international law.—If, as the war progresses, it unfortunately becomes clear that in defiance of international law the enemy has adopted a policy of attacking merchant ships without warning, it will then be permissible to open fire on an enemy vessel, submarine, or aircraft, even before she has attacked or demanded surrender, if to do so will tend to prevent her gaining a favorable position for attacking."

Is this order, that is to say, the order "(a)" and "(b)," in accord with the experiences made?

DÖNITZ: In practice no difference can be established between "(a)" and "(b)." I should like to draw attention in this connection to D. M. S. 3-III, Page 167, under IV; that is the last paragraph of "(b)" of the number mentioned.

FLOTTENRICHTER KRANZBÜHLER: One moment, do you mean "(b)-V"?

DÖNITZ: It says here "(b)-IV". There . . .

FLOTTENRICHTER KRANZBÜHLER: That is not printed, Mr. President.

DÖNITZ: "In ships fitted with a defensive armament, open fire to keep the enemy at a distance"—that is (b)-IV—"if you consider that he is clearly intending to effect a capture and that he is approaching so close as to endanger your chances of escape."

That means therefore that as soon as the ship sights a U-boat, which during war must be assumed to be there for a reason to effect a capture—the ship will, in its own defense, open fire as soon as it comes within range; that is when the submarine has come within range of its guns. The ship, in using its guns for an offensive action, can act in no other way.

FLOTTENRICHTER KRANZBÜHLER: Admiral, did the armed enemy vessels act then in the manner which you have described; that is, did they really fire as soon as a submarine came within range?

DÖNITZ: Yes. As early as—according to my recollection, the first report came from a U-boat about that on 6 September 1939.

FLOTTENRICHTER KRANZBÜHLER: With this order, however, we find a further supplement under AMS I-118, dated 13 June 1940, on Page 165, and here we read:

"With reference to D.M.S. Part 1, Article 53, it is now considered clear that in submarine and aerial operations the enemy has adopted a policy of attacking merchant ships without warning. Subparagraph (b) of this article should therefore be regarded as being in force."

That means, then, that the order which we read before, "(b)" was to be considered in effect only from 13 June 1940. Do you mean to say that actually before that, from the very beginning, you acted according to the order "(b)"?

DÖNITZ: I have already stated that between an offensive and defensive use of armament on the part of a ship against a submarine, there is practically no difference at all, that it is a purely theoretical differentiation. But even if one did differentiate between them, then beyond doubt the Reuter report—I believe dated 9 September—which said incorrectly that we were conducting unlimited submarine warfare was designated to inform ships' captains that now case "(b)" was valid.

FLOTTENRICHTER KRANZBÜHLER: I put to you now a directive on the handling of depth charges on merchant ships. It is on Page 168, the reference list. The heading is "Reference List (D)," the date is "14 September 1939." I read:

"The following instructions have been sent out to all W.P.S.'s: It has now been decided to fit a single depth charge chute, with hand release gear and supplied with 3 charges, in all armed merchant vessels of 12 knots or over."

Then there are more details and at the end a remark about the training of the crews in the use of depth charges. The distribution list shows numerous naval officers.

Did you experience this use of depth charges by merchant vessels and were such depth charge attacks by merchant ships observed?

DÖNITZ: Yes, repeatedly.

FLOTTENRICHTER KRANZBÜHLER: Speaking of a ship with a speed of 12 knots or more, can one say that a depth charge attack against a U-boat is a defensive measure?

DÖNITZ: No. Each depth charge attack against a submarine is definitely and absolutely an offensive action; for the submarine submerges and is harmless under water, while the surface vessel which wants to carry out the depth charge attack approaches as closely as possible to the position where it assumes the U-boat to be, in order to drop the depth charge as accurately as possible on top of the U-boat. A destroyer, that is, a warship, does not attack a submarine in any different way.

FLOTTENRICHTER KRANZBÜHLER: You are therefore basing the manner in which you attacked enemy ships on these tactics employed by enemy merchantmen. However, neutral ships also suffered, and the Prosecution charges the German U-boat command expressly with this. What do you have to say to that?

DÖNITZ: Neutral merchantmen, according to the political orders, the orders of the Naval Operations Staff, were only attacked without warning when they were found in operational zones which had been definitely designated as such, or naturally only when they did not act as neutrals should, but like ships which were participating in the war.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution has offered a document in evidence, according to which, in certain ocean areas, attack without warning against neutrals was authorized, beginning January 1940. I am referring to Prosecution Document GB-194. I will read to you the sentence which the Prosecution is holding against you.

THE PRESIDENT: Can you tell us where it is?

FLOTTENRICHTER KRANZBÜHLER: It is in the British document book, Page 30, Mr. President. In the document book of the Prosecution, Page 30.

[Turning to the defendant.] I will read you the sentence which is held against you:

"In the Bristol Channel, attack without warning has been authorized against all ships where it is possible to claim that mine hits have taken place."

This order is dated 1 January 1940. Can you tell me whether at that time neutrals had already actually been warned against using this shipping lane?

DÖNITZ: Yes. Germany had sent a note to the neutrals on 24 November 1939, warning them against using these lanes and advising neutrals to use the methods of the United States, whereby American ships—in order to avoid any incidents—had been forbidden to enter the waters around England.

FLOTTENRICHTER KRANZBÜHLER: I will hand you the note of which you speak, and I will at the same time submit it to the Tribunal as Exhibit Dönitz-73, to be found on Page 206 of the document book. It is in Document Book 4, Page 206.

This is an excerpt from the War Diary of the Naval Operations Staff, dated 24 November 1939. It has the following text:

"To the Missions, according to enclosed list.

"Telegram.

"Supplement to wire release of 22 October.

"Please inform the Government there of the following:

"Since the warning issued on (date to be inserted here) regarding the use of English and French ships, the following two new facts are to be recorded:

"a) The United States has forbidden its ships to sail in a definitely defined area.

"b) Numerous enemy merchant ships have been armed. It is known that these armed ships have instructions to use their weapons aggressively and to ram U-boats.

"These two new facts give the Reich Government occasion to renew and emphasize its warning, that in view of the increasingly frequent engagements, waged with all means of modern war technique, in waters around the British Isles and in the vicinity of the French coast, the safety of neutral ships in this area can no longer be taken for granted.

"Therefore the German Government urgently recommends the choice of the route south and east of the German-proclaimed danger zone, when crossing the North Sea.

"In order to maintain peaceful shipping for neutral states and in order to avoid loss of life and property for the neutrals, the Reich Government furthermore feels obliged to recommend urgently legislative measures following the pattern of the U.S. Government, which in apprehension of the dangers of modern warfare, forbade its ships to sail in an exactly defined area, in which, according to the words of the President of the United States, the traffic of American ships may seem imperiled by belligerent action.

"The Reich Government must point out that it rejects any responsibility for consequences brought about by disregarding recommendations and warnings."

This is the note to which you referred, Admiral?

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: In other words, in your opinion, these sinkings in the Bristol Channel could be carried out lawfully as from 1 January?

DÖNITZ: Yes; these ocean areas were clearly limited areas in which hostilities took place continuously on both sides. The neutrals had been warned expressly against using these areas. If they entered this war area, they had to run the risk of being damaged. England proceeded likewise in its operational areas in our waters.

FLOTTENRICHTER KRANZBÜHLER: Since you considered these sinkings legal, why was the order given to attack without being sighted, if possible, in order to maintain the fiction that mine hits had taken place? Doesn't that indicate a bad conscience?

DÖNITZ: No. During a war there is no basic obligation to inform the enemy with what means one does one's fighting. In

other words, this is not a question of legality, but a question of military or political expediency.

England in her operational areas did not inform us either as to the means of fighting she uses or did use; and I know how many headaches this caused me when I was Commander-in-Chief of the Navy, later, in endeavoring to employ economically the small means we had.

That is the principle. At that time when, as Commander of U-boats, I received this order to simulate mine hits where possible, I considered this as militarily expedient, because the counterintelligence were left in doubt as to whether mine sweepers or U-boat defense means were to be employed.

In other words, it was a military advantage for the nation conducting the war, and today I am of the opinion that political reasons also may have influenced this decision, with the object of avoiding complications with neutral countries.

FLOTTENRICHTER KRANZBÜHLER: How could complications with neutral countries come into being, in your opinion, if this naval warfare measure was a legal one?

DÖNITZ: During the first World War we had experienced what part is played by propaganda. Therefore I think it possible that our Government, our political leaders, for this reason, too, may have issued this order.

FLOTTENRICHTER KRANZBÜHLER: From your own experience you know nothing about these political reasons?

DÖNITZ: Nothing at all.

FLOTTENRICHTER KRANZBÜHLER: Up to now you have spoken about the orders which were received by the U-boats, first for combating enemy ships, and secondly for combating or searching neutral ships. Were these orders then actually executed? That was primarily your responsibility, was it not?

DÖNITZ: No U-boat commander purposely transgressed an order, or failed to execute it. Of course, considering the large number of naval actions, which ran into several thousands within the 5½ years of war, a very few individual cases occurred in which, by mistake, such an order was not followed.

FLOTTENRICHTER KRANZBÜHLER: How could such a mistake occur?

DÖNITZ: Every sailor knows how easily mistakes in identification can occur at sea; not only during a war, but also in peacetime, due to visibility, weather conditions, and other factors.

FLOTTENRICHTER KRANZBÜHLER: Is it also possible that submarines operated on the borders of the operational areas, although they were already outside these borders?

DÖNITZ: That is, of course, also possible. For again every sailor knows that after a few days of bad weather, for instance, inaccuracy in the ship's course happens very easily. This occurs, however, not only in the case of the submarine, but also of the ship, which perhaps is under the impression of having been outside the operational area when torpedoed. It is very difficult to establish the fact in such cases.

FLOTTENRICHTER KRANZBÜHLER: What steps did you, as Commander of U-boats, take when you heard of such a case, a case in which a U-boat had transgressed its orders, even if by mistake?

DÖNITZ: The main thing was the preventive measures, and that was done through training them to be thorough and to investigate quietly and carefully before the commander took action. Moreover, this training had already been carried on in peacetime, so that our U-boat organization bore the motto: "We are a respectable firm."

The second measure was that during the war every commander, before leaving port, and after returning from his mission, had to report to me personally. That is, before leaving port he had to be briefed by me.

FLOTTENRICHTER KRANZBÜHLER: I beg your pardon, Admiral. That did not continue when you were Commander-in-Chief of the Navy, did it?

DÖNITZ: That was limited after 1943, after I had become Commander-in-Chief. Even then it did continue. In any case, it was the definite rule during my time as Commander of U-boats, so that a commander's mission was considered completed and satisfactory only after he had reported to me in full detail. If, on such an occasion, I could establish negligence, then I made my decision according to the nature of the case, as to whether disciplinary action or court-martial proceedings and punishment had to take place.

FLOTTENRICHTER KRANZBÜHLER: I have found here an entry GB-198, on Page 230, in Document Book 4 of the Prosecution, which I would like to read to you. This is a war diary of the Commander of U-boats, that is, yourself.

I read the entry of 25 September 1942:

"*U-512* reports that the *Monte Corbea* was recognized as a neutral ship before being torpedoed. Assumed suspicions of

being a camouflaged English ship are insufficient and do not justify the sinking. The commander will have to stand court-martial for his conduct. All boats at sea will be informed."

Two days later, on 27 September 1942, a radio signal was sent to all. I read:

"Radio signal to all:

"The Commander-in-Chief of the Navy has personally and expressly ordered anew that all U-boat commanders are to comply exactly with the orders concerning the treatment of neutral ships. Violations of these orders will have incalculable political consequences. This order is to be disseminated at once to all commanders."

Will you please tell me what resulted from the court-martial which you ordered here?

DÖNITZ: I had sent my radio signal to the commander stating that after his return he would have to be answerable before a court-martial, because of the sinking. The commander did not return from this mission with his boat. Therefore this court-martial did not take place.

FLOTTENRICHTER KRANZBÜHLER: Did you, in any other case, have experience as to how the courts-martial treated the difficult task of the U-boat commanders when you had ordered a court-martial?

DÖNITZ: Yes. I remember a case against Kapitänleutnant Kraemer, who had to be acquitted by the court-martial because it was proven that, before the attack, before firing the shot, he had taken note once more through the periscope of the identification of the ship—it was a German blockade-runner—and, in spite of that, was of the opinion that it was a different ship, an enemy ship, and that he was justified in sinking it. In other words, it was not a case of negligence, and therefore in this case he was acquitted.

FLOTTENRICHTER KRANZBÜHLER: Taking into consideration all the results of your measures for training and punishing personnel, do you have the impression that enough was done to make the U-boat commanders obey your orders, or did the U-boat commanders in the long run disobey your orders?

DÖNITZ: I do not think it is necessary to discuss this question at all. The simple facts speak for themselves. During the 5½ years, several thousand naval actions were engaged in by submarines. The number of incidents is an extremely small fraction and I know that this result is only due to the unified leadership of all submarine commanders, to co-ordination and also to their proper training and their responsibility.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution has offered a document, GB-195 on Page 32 of the Prosecution's document book. In this document is entered an order of the Führer, dated 18 July 1941, and it reads as follows:

"In the original operational area, which corresponds in extent with the U.S. prohibited zone for U.S. ships and which is not touched by the U.S.-Iceland route, attacks on ships under American or British escort or U.S. merchantmen sailing without escort are authorized."

In connection with this order by the Führer, the Prosecution, Admiral, termed your attitude cynical and opportunistic. Will you please explain to the Tribunal what the meaning of this order actually is?

DÖNITZ: In August 1940 Germany had declared this operational area in English waters. U.S. ships were, however, expressly excluded from attack without warning in this operational area because, as I believe, the political leaders wanted to avoid any possibility of an incident with the U.S.A. I said the political leaders. The Prosecution has accused me, in my treatment and attitude, my differing attitude toward the neutrals, of having a masterful agility in adapting myself, that is guided by cynicism and opportunism. It is clear that the attitude of a state toward neutrals is a purely political affair, and that this relation is decided exclusively by the political leadership, particularly in a nation that is at war.

FLOTTENRICHTER KRANZBÜHLER: You mean to say, in other words, that you had nothing to do with the handling of this question?

DÖNITZ: As a soldier I had not the slightest influence on the question of how the political leadership believed they had to treat this or that neutral. Regarding this particular case, however, from knowledge of the orders I received through the Chief of the Naval Operations Staff from the political leadership, I should like to say the following: I believe that the political leadership did everything to avoid any incident on the high seas with the United States. First, I have already stated that the U-boats were actually forbidden even to stop American ships. Second . . .

FLOTTENRICHTER KRANZBÜHLER: One moment, Admiral. To stop them where, in the operational area or outside the operational area?

DÖNITZ: At first, everywhere.

Second, that the American 300-mile safety zone was recognized without any question by Germany, although according to the existing international law only a three-mile zone was authorized.

Third, that . . .

THE PRESIDENT: Dr. Kranzbühler, an interesting distinction which may be drawn between the United States and other neutrals is not relevant to this Trial, is it? What difference does it make?

FLOTTENRICHTER KRANZBÜHLER: In connection with the document cited by me, GB-195, the Prosecution has made the accusation that Admiral Dönitz conducted his U-boat warfare cynically and opportunistically: that is, in that he treated one neutral well and the other one badly. This accusation has been made expressly, and I want to give Admiral Dönitz the opportunity to make a statement in reply to this accusation. He has already said that he had nothing to do with the handling of this question.

THE PRESIDENT: What more can he say than that?

FLOTTENRICHTER KRANZBÜHLER: Mr. President, according to the principles of the Statute, a soldier is also made responsible for the orders which he executed. For this reason it is my opinion that he must be able to state whether on his side he had the impression that he received cynical and opportunistic orders or whether on the contrary he did not have the impression that everything was done to avoid a conflict and that the orders which were given actually were necessary and right.

THE PRESIDENT: You have dealt with this order about the United States ships, now.

FLOTTENRICHTER KRANZBÜHLER: Yes, I have almost finished.

[Turning to the defendant.] Did you want to say something more about the third point, Admiral?

DÖNITZ: I wanted to mention two or three more points on this subject.

FLOTTENRICHTER KRANZBÜHLER: I think that is possible.

THE PRESIDENT: You may go on, but we hope that you will deal with this point shortly. It appears to the Tribunal to be very unimportant.

FLOTTENRICHTER KRANZBÜHLER: Yes, Sir.

DÖNITZ: For instance, I had suggested that mines be laid before Halifax, the British port of Nova Scotia, and before Reykjavik, both bases being important for war ships and merchant shipping. The political leaders, the Führer, rejected this because he wanted to avoid every possibility of friction with the United States.

FLOTTENRICHTER KRANZBÜHLER: May I formulate the question this way, that you, from the orders for the treatment of U.S. ships, in no way had the impression that opportunism or cynicism prevailed here, but that everything was done with the

greatest restraint in order to avoid a conflict with the United States?

DÖNITZ: Yes. This went so far, in fact, that when the American destroyers in the summer of 1941 received orders to attack German submarines, that is, before war started, when they were still neutral and I was forbidden to fight back, I was then forced to forbid the submarines in this area to attack even British destroyers, in order to avoid having a submarine mistake an American for a British ship.

THE PRESIDENT: We will adjourn.

[The Tribunal adjourned until 9 May 1946 at 1000 hours.]

ONE HUNDRED AND TWENTY-FIFTH DAY

Thursday, 9 May 1946

Morning Session

[The Defendant Dönitz resumed the stand.]

FLOTTENRICHTER KRANZBÜHLER: With the permission of the Tribunal, I will continue my examination of the witness.

[Turning to the defendant.] Admiral, how many merchant ships were sunk by German U-boats in the course of the war?

DÖNITZ: According to the Allied figures, 2,472.

FLOTTENRICHTER KRANZBÜHLER: How many combat actions, according to your estimate, were necessary to do this?

DÖNITZ: I believe the torpedoed ships are not included in this figure of 2,472 sunk ships; and, of course, not every attack leads to a success. I would estimate that in 5½ years perhaps 5,000 or 6,000 actions actually took place.

FLOTTENRICHTER KRANZBÜHLER: In the course of all these actions did any of the U-boat commanders who were subordinate to you voice objections to the manner in which the U-boats operated?

DÖNITZ: No, never.

FLOTTENRICHTER KRANZBÜHLER: What would you have done with a commander who refused to carry out the instructions for U-boat warfare?

DÖNITZ: First, I would have had him examined; if he proved to be normal I would have put him before a court-martial.

FLOTTENRICHTER KRANZBÜHLER: You could only have done that with a clear conscience if you yourself assumed full responsibility for the orders which you either issued or which you transmitted?

DÖNITZ: Naturally.

FLOTTENRICHTER KRANZBÜHLER: In battle engagements with U-boats, crews of merchant ships no doubt lost their lives. Did you consider crews of enemy merchantmen as soldiers or as civilians, and for what reasons?

DÖNITZ: Germany considered the crews of merchantmen as combatants, because they fought with the weapons which had been

mounted aboard the merchant ships in large numbers. According to our knowledge one or two men of the Royal Navy were on board for the servicing of these weapons, but where guns were concerned the rest of the gunners were part of the crew of the ship.

FLOTTENRICHTER KRANZBÜHLER: How many were there for one gun?

DÖNITZ: That varied according to the size of the weapon, probably between five and ten. Then, in addition, there were munitions men. The same applied to the servicing of depth charge chutes and depth charge throwers.

The members of the crew did, in fact, fight with the weapons like the few soldiers who were on board. It was also a matter of course that the crew was considered as a unit, for in a battleship we cannot distinguish either between the man who is down at the engine in the boiler room and the man who services the gun up on deck.

FLOTTENRICHTER KRANZBÜHLER: Did this view, that the members of the crews of hostile merchant ships were combatants, have any influence on the question of whether they could or should be rescued? Or did it not have any influence?

DÖNITZ: No, in no way. Of course, every soldier has a right to be rescued if the circumstances of his opponent permit it. But this fact should have an influence upon the right to attack the crew as well.

FLOTTENRICHTER KRANZBÜHLER: Do you mean that they could be fought as long as they were on board the ship?

DÖNITZ: Yes, there can be no question of anything else—that means fought with weapons used for an attack against a ship as part of naval warfare.

FLOTTENRICHTER KRANZBÜHLER: You know that the Prosecution has submitted a document about a discussion between Adolf Hitler and the Japanese Ambassador, Oshima. This discussion took place on 3 January 1942. It is Exhibit Number GB-197, on Page 34 of the document book of the Prosecution. In this document Hitler promises the Japanese Ambassador that he will issue an order for the killing of the shipwrecked, and the Prosecution concludes from this document that Hitler actually gave such an order and that this order was carried out by you.

Did you, directly or through the Naval Operations Staff, receive a written order of this nature?

DÖNITZ: I first heard about this discussion and its contents when the record of it was submitted here.

FLOTTENRICHTER KRANZBÜHLER: Admiral, may I ask you to answer my question? I asked, did you receive a written order?

DÖNITZ: No, I received neither a written nor a verbal order. I knew nothing at all about this discussion; I learned about it through the document which I saw here.

FLOTTENRICHTER KRANZBÜHLER: When did you see Hitler for the first time after the date of this discussion, that is, January 1942?

DÖNITZ: Together with Grossadmiral Raeder I was at headquarters on 14 May 1942 and told him about the situation in the U-boat campaign.

FLOTTENRICHTER KRANZBÜHLER: There is a note written by you about this discussion with the Führer, and I would like to call your attention to it. It is Dönitz-16, to be found on Page 29 of Document Book Number 1. I submit the document, Dönitz-16. I will read it to you. The heading runs:

"Report of the Commander of Submarines to the Führer on 14 May 1942 in the presence of the Commander-in-Chief of the Navy"—that is, Grossadmiral Raeder.

"Therefore it is necessary to improve the weapons of the submarines by all possible means, so that the submarines may keep pace with defense measures. The most important development is the torpedo with magnetic detonator which would increase precision of torpedoes fired against destroyers and therefore would put the submarine in a better position with regard to defense; it would above all also hasten considerably the sinking of torpedoed ships, whereby we would economize on torpedoes and also protect the submarine from countermeasures, insofar as it would be able to leave the place of combat more quickly."

And now, the decisive sentence:

"A magnetic detonator will also have the great advantage that the crew will not be able to save themselves on account of the quick sinking of the torpedoed ship. This greater loss of men will no doubt cause difficulties in the assignment of crews for the great American construction program."

Does this last sentence which I read imply what you just referred to as combating the crew with weapons . . .?

THE PRESIDENT: You seem to attach importance to this document. Therefore, you should not put a leading question upon it. You should ask the defendant what the document means, and not put your meaning on it.

FLOTTENRICHTER KRANZBÜHLER: Admiral, what did these expositions mean?

DÖNITZ: They mean that it was important to us, as a consequence of the discussion with the Führer at his headquarters, to find a good magnetic detonator which would lead to a more rapid sinking of the ships and thereby achieve the results noted in this report in the war diary.

FLOTTENRICHTER KRANZBÜHLER: Can you tell me what successes you mean by this, as far as the crews are concerned?

DÖNITZ: I mean that not several torpedoes would be required, as heretofore, to sink a ship by long and difficult attack; but that one torpedo, or very few, would suffice to bring about a more speedy loss of the ship and the crew.

FLOTTENRICHTER KRANZBÜHLER: Did you, in the course of this discussion with the Führer, touch on the question . . .

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: One moment—the question whether other means might be envisaged to cause loss of life among the crews?

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: In what way and by whom?

DÖNITZ: The Führer brought up the fact that, in the light of experience, a large percentage of the crews, because of the excellence of the rescue means, were reaching home and were used again and again to man new ships, and he asked whether there might not be some action taken against these rescue ships.

FLOTTENRICHTER KRANZBÜHLER: What do you mean by action taken?

DÖNITZ: At this discussion, in which Grossadmiral Raeder participated, I rejected this unequivocally and told him that the only possibility of causing losses among the crews would lie in the attack itself, in striving for a faster sinking of the ship through the intensified effect of weapons. Hence this remark in my war diary. I believe, since I received knowledge here through the Prosecution of the discussion between the Führer and Oshima, that this question of the Führer to Grossadmiral Raeder and myself arose out of this discussion.

FLOTTENRICHTER KRANZBÜHLER: There exists an affidavit by Grossadmiral Raeder about this discussion. You know the contents. Do the contents correspond to your recollection of this discussion?

DÖNITZ: Yes, completely.

FLOTTENRICHTER KRANZBÜHLER: Then I would like to submit to the Tribunal, as Dönitz-17, the affidavit of Grossadmiral Raeder; since it has the same content, I may dispense with the reading of it.

SIR DAVID MAXWELL-FYFE: I was going to say in case it might help the Tribunal, I understand the Defendant Raeder will be going into the witness box; therefore, I make no formal objection to this affidavit going in.

THE PRESIDENT: Very well.

FLOTTENRICHTER KRANZBÜHLER: It has the Number Dönitz-17 and is found on Page 33 of Document Book 1.

[Turning to the defendant.] You just said that you rejected the suggested killing of survivors in lifeboats and stated this to the Führer. However, the Prosecution has presented two documents, an order of the winter of 1939-40 and a second order of the autumn of 1942, in which you limited or prohibited rescue measures. Is there not a contradiction between the orders and your attitude toward the proposal of the Führer?

DÖNITZ: No. These two things are not connected with each other in any way. One must distinguish very clearly here between the question of rescue or nonrescue, and that is a question of military possibility. During a war the necessity of refraining from rescue may well arise. For example, if your own ship is endangered thereby, it would be wrong from a military viewpoint and, besides, would not be of value for the one to be rescued; and no commander of any nation is expected to rescue if his own ship is thereby endangered.

The British Navy correctly take up a very clear, unequivocal position in this respect: that rescue is to be denied in such cases; and that is evident also from their actions and commands. That is one point.

FLOTTENRICHTER KRANZBÜHLER: Admiral, you spoke only about the safety of the ship as a reason for not carrying out rescue.

DÖNITZ: There may of course be other reasons. For instance it is clear that in war the mission to be accomplished is of first importance. No one will start to rescue, for example, if after subduing one opponent there is another on the scene. Then, as a matter of course, the combating of the second opponent is more important than the rescue of those who have already lost their ship.

The other question is concerned with attacking the shipwrecked, and that is . . .

FLOTTENRICHTER KRANZBÜHLER: Admiral, whom would you call shipwrecked?

DÖNITZ: Shipwrecked persons are members of the crew who, after the sinking of their ship, are not able to fight any longer and are either in lifeboats or other means of rescue or in the water.

FLOTTENRICHTER KRANZBÜHLER: Yes.

DÖNITZ: Firing upon these men is a matter concerned with the ethics of war and should be rejected under any and all circumstances. In the German Navy and U-boat force this principle, according to my firm conviction, has never been violated, with the one exception of the affair Eck. No order on this subject has ever been issued, in any form whatsoever.

FLOTTENRICHTER KRANZBÜHLER: I want to call to your attention one of the orders submitted by the Prosecution. It is your permanent War Order Number 154; Exhibit Number GB-196 and in my document book on Pages 13 to 15. I will have this order given to you, and I am asking you to turn to the last paragraph, which was read by the Prosecution. There it says, I read it again:

> "Do not rescue any men; do not take them along; and do not take care of any boats of the ship. Weather conditions and proximity of land are of no consequence. Concern yourself only with the safety of your own boat and with efforts to achieve additional successes as soon as possible. We must be hard in this war. The enemy started the war in order to destroy us, and thus nothing else matters."

The Prosecution has stated that this order went out, according to their records, before May 1940. Can you from your knowledge fix the date a little more exactly?

DÖNITZ: According to my recollection, I issued this order at the end of November or the beginning of December 1939, for the following reasons:

I had only a handful of U-boats a month at my disposal. In order that this small force might prove effective at all, I had to send the boats close to the English coast, in front of the ports. In addition, the magnetic mine showed itself to be a very valuable weapon of war. Therefore, I equipped these boats both with mines and torpedoes and directed them, after laying the mines, to operate in waters close to the coast, immediately outside the ports. There they fought in constant and close combat and under the surveillance of naval and air patrols. Each U-boat which was sighted or reported there was hunted by U-boat-chasing units and by air patrols ordered to the scene.

The U-boats themselves, almost without exception or entirely, had as their objectives only ships which were protected or accompanied by some form of protection. Therefore, it would have been

suicide for the U-boat, in a position of that sort, to come to the surface and to rescue.

The commanders were all very young; I was the only one who had service experience from the first World War. And I had to tell them this very forcibly and drastically because it was hard for a young commander to judge a situation as well as I could.

FLOTTENRICHTER KRANZBÜHLER: Did experience with rescue measures already play a part here?

DÖNITZ: Yes. In the first months of the war I had very bitter experiences. I suffered very great losses in sea areas far removed from any coast; and as very soon I had information through the Geneva Red Cross that many members of crews had been rescued, it was clear that these U-boats had been lost above the water. If they had been lost below the water the survival of so many members of the crews would have been impossible. I also had reports that there had been very unselfish deeds of rescue, quite justifiable from a humane angle, but militarily very dangerous for the U-boat. So now, of course, since I did not want to fight on the open sea but close to the harbors or in the coastal approaches to the harbors, I had to warn the U-boats of the great dangers, in fact of suicide.

And, to state a parallel, English U-boats in the Jutland waters, areas which we dominated, showed, as a matter of course and quite correctly, no concern at all for those who were shipwrecked, even though, without a doubt, our defense was only a fraction of the British.

FLOTTENRICHTER KRANZBÜHLER: You say that this order applied to U-boats which operated in the immediate presence of the enemy's defense. Can you, from the order itself, demonstrate the truth of that?

DÖNITZ: Yes; the entire order deals only with, or assumes, the presence of the enemy's defense; it deals with the battle against convoys. For instance it reads, "Close range is also the best security for the boat..."

FLOTTENRICHTER KRANZBÜHLER: What number are you reading?

DÖNITZ: Well, the order is formulated in such a way that Number 1 deals at first with sailing, not with combat. But the warning against enemy air defense is given there also, and in this warning about countermeasures it is made clear that it is concerned entirely with outgoing ships. Otherwise I would obviously not have issued an order concerning sailing. Number 2 deals with the time prior to the attack. Here mention is made of moral inhibitions which every soldier has to overcome before an attack.

FLOTTENRICHTER KRANZBÜHLER: Admiral, you need only refer to the figures which show that the order is concerned with fighting enemy defense.

DÖNITZ: Very well. Then I will quote from 2(d). It says there: "Close range is also the best security for the boat.

"While in the vicinity of the vessels"—that is, the merchantmen—"the protecting ships"—that is, the destroyers—"will at first not fire any depth charges. If one fires into a convoy from close quarters"—note that we are dealing with convoys—"and then is compelled to submerge, one can then dive most quickly below other ships of the convoy and thus remain safe from depth charges."

Then the next paragraph, which deals with night conditions, says:

"Stay above water. Withdraw above water. Possibly make a circle and go around at the rear."

Every sailor knows that one makes a circle or goes around at the rear of the protecting enemy ships. Further, in the third paragraph, I caution against submerging too soon, because it blinds the U-boat, and I say:

"Only then does the opportunity offer itself for a new attack, or for spotting and noting the opening through which one can shake off the pursuing enemy."

Then the figure "(c)," that is, "3(c)," and there it says:

"During an attack on a convoy one may have to submerge to a depth of 20 meters to escape from patrols or aircraft and to avoid the danger of being sighted or rammed . . . ."

Thus we are talking here about a convoy. Now we turn to point "(d)" and here it says:

"It may become necessary to submerge to depth when, for example, the destroyer is proceeding directly toward the periscope . . ."

And then follow instructions on how to act in case of a depth-charge attack. Plainly, the whole order deals with . . .

THE PRESIDENT: I don't think it is necessary to go into all of these military tactics. He has made a point on Paragraph "e." He has given his explanation of that paragraph, and I don't think it is necessary to go into all of these other tactics.

DÖNITZ: I only want to say that the last paragraph about nonrescue must not be considered alone but in this context: First, the U-boats had to fight in the presence of enemy defense near the English ports and estuaries; and secondly, the objectives were ships in convoys, or protected ships, as is shown clearly from the document as a whole.

FLOTTENRICHTER KRANZBÜHLER: You said that this order was given about December 1939. Did the German U-boats after the order had been issued actually continue rescues? What experiences did you have?

DÖNITZ: I said that the order was issued for this specific purpose during the winter months. For the U-boats which, according to my memory, went out into the Atlantic again only after the Norwegian campaign, for these U-boats the general order of rescue applied; and this order was qualified only in one way, namely that no rescue was to be attempted if the safety of a U-boat did not permit it. The facts show that the U-boats acted in this light.

FLOTTENRICHTER KRANZBÜHLER: Do you mean then that you had reports from U-boat commanders about rescue measures?

DÖNITZ: I received these reports whenever a U-boat returned, and subsequently through the combat log books.

FLOTTENRICHTER KRANZBÜHLER: When was this order which we have just discussed formally rescinded?

DÖNITZ: To my knowledge this order was captured or salvaged by England on the U-13 which was destroyed by depth charges in very shallow water in the Downs near the mouth of the Thames. For this boat, of course, this order may still have applied in May 1940. Then in the year 1940, after the Norway Campaign, I again made the open waters of the Atlantic the central field of operations, and for these boats this order did not apply, as is proved by the fact that rescues took place, which I just explained.

I then rescinded the order completely for it contained the first practical instructions on how U-boats were to act toward a convoy and later on was no longer necessary, for by then it had become second nature to the U-boat commanders. To my recollection the order was completely withdrawn in November 1940 at the latest.

FLOTTENRICHTER KRANZBÜHLER: Admiral, I have here the table of contents of the "Standing War Orders of 1942," and that may be found on Page 16 of Document Book Number 1. I will submit it as Dönitz-11. In this table of contents the Number 154 which deals with the order we have just discussed is blank. Does that mean that this order did not exist any more at the time when the "Standing War Orders of 1942" were issued?

DÖNITZ: Yes, by then it had long since ceased to exist.

FLOTTENRICHTER KRANZBÜHLER: When were the standing orders for the year 1942 compiled?

DÖNITZ: In the course of the year 1941.

FLOTTENRICHTER KRANZBÜHLER: When you received reports from commanders about rescue measures, did you object to these measures? Did you criticize or prohibit them?

DÖNITZ: No, not as a rule; only if subsequently my anxiety was too great. For example, I had a report from a commander that, because he had remained too long with the lifeboats and thus had been pursued by the escorts perhaps—or probably—summoned by wireless, his boat had been severely attacked by depth charges and had been badly damaged by the escorts—something which would not have happened if he had left the scene in time—then naturally I pointed out to him that his action had been wrong from a military point of view. I am also convinced that I lost ships through rescue. Of course I cannot prove that, since the boats are lost. But such is the whole mentality of the commander; and it is entirely natural, for every sailor retains from the days of peace the view that rescue is the noblest and most honorable act he can perform. And I believe there was no officer in the German Navy—it is no doubt true of all the other nations—who, for example, would not consider a medal for rescue, rescue at personal risk, as the highest peacetime decoration. In view of this basic attitude it is always very dangerous not to change to a wartime perspective and to the principle that the security of one's own ship comes first, and that war is after all a serious thing.

FLOTTENRICHTER KRANZBÜHLER: In what years was the practice you have just described followed, that U-boats did not rescue when they endangered themselves?

DÖNITZ: In 1940, that is towards the end of 1939, economic warfare was governed by the Prize Ordinance insofar as U-boats were still operating individually. Then came the operations, close to the enemy coast, of 1939-40 which I have described; the order Number 154 applied to these operations. Then came the Norway campaign, and then when the U-boat war resumed in the spring of 1940, this order of rescue, or nonrescue if the U-boat itself was endangered, applied in the years 1940, 1941, and 1942 until autumn.

FLOTTENRICHTER KRANZBÜHLER: Was this order put in writing?

DÖNITZ: No, it was not necessary, for the general order about rescue was a matter of course, and besides it was contained in certain orders of the Naval Operations Staff at the beginning of the war. The stipulation of nonrescue, if the safety of the submarine is at stake, is taken for granted in every navy; and I made a special point of that in my reports on the cases which I have just discussed.

FLOTTENRICHTER KRANZBÜHLER: In June of 1942 there was an order about the rescue of captains. This has the Number Dönitz-22; I beg your pardon—it is Dönitz Number 23, and is found on Page 45 of Document Book 1, and I hereby submit it. It is an

extract from the War Diary of the Naval Operations Staff of 5 June 1942. I quote:

"According to instructions received from the Naval Operations Staff submarines are ordered by the Commander of U-boats to take on board as prisoners captains of ships sunk, with their papers, if this is possible without endangering the boat and without impairing fighting capacity."

How did this order come into being?

DÖNITZ: Here we are concerned with an order of the Naval Operations Staff that captains are to be taken prisoners, that is, to be brought home and that again is something different from rescue. The Naval Operations Staff was of the opinion—and rightly—that since we could not have a very high percentage, say 80 to 90 percent, of the crews of the sunk merchantmen brought back—we even helped in their rescue, which was natural—then at least we must see to it that the enemy was deprived of the most important and significant parts of the crews, that is, the captains; hence the order to take the captains from their lifeboats on to the U-boats as prisoners.

FLOTTENRICHTER KRANZBÜHLER: Did this order exist in this or another form until the end of the war?

DÖNITZ: Yes, it was later even incorporated into the standing orders, because it was an order of the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: Was it carried out until the end of the war, and with what results?

DÖNITZ: Yes, according to my recollection it was carried out now and then even in the last few years of the war. But in general the result of this order was very slight. I personally can remember only a very few cases. But through letters which I have now received from my commanders and which I read, I discovered that there were a few more cases than I believed, altogether perhaps 10 or 12 at the most.

FLOTTENRICHTER KRANZBÜHLER: To what do you attribute the fact that despite this express order so few captains were taken prisoner?

DÖNITZ: The chief reason, without doubt, was that on an increasing scale, the more the mass of U-boats attacked enemy convoys, the convoy system of the enemy was perfected. The great bulk of the U-boats was engaged in the battle against convoys. In a few other cases it was not always possible by reason of the boat's safety to approach the lifeboats in order to pick out a captain. And thirdly, I believe that the commanders of the U-boats were reluctant, quite rightly from their viewpoint, to have a captain on

board for so long during a mission. In any event, I know that the commanders were not at all happy about this order.

FLOTTENRICHTER KRANZBÜHLER: Admiral, now I turn to a document which is really the nucleus of the accusation against you. It is Document GB-199, Page 36 of the British document book. This is your radio message of 17 September, and the Prosecution asserts that it is an order for the destruction of the shipwrecked. It is of such importance that I will read it to you again.

"To all Commanding Officers:

"1. No attempt of any kind must be made to rescue members of ships sunk, and this includes picking up persons in the water and putting them in lifeboats, righting capsized lifeboats, and handing over food and water. Rescue runs counter to the most elementary demands of warfare for the destruction of enemy ships and crews.

"2. Orders for bringing back captains and chief engineers still apply.

"3. Rescue the shipwrecked only if their statements will be of importance for your boat.

"4. Be harsh. Bear in mind that the enemy takes no regard of women and children in his bombing attacks on German cities."

Please describe to the Tribunal the antecedents of this order, which are decisive for its intentions. Describe first of all the general military situation out of which the order arose.

DÖNITZ: In September of 1942 the great bulk of the German U-boats fought convoys. The center of gravity in the deployment of U-boats was in the North Atlantic, where the protected convoys operated between England and America. The U-boats in the north fought in the same way, attacking only the convoys to Murmansk. There was no other traffic in that area. The same situation existed in the Mediterranean; there also the objects of our attack were the convoys. Beyond that, a part of the boats was committed directly to American ports, Trinidad, New York, Boston, and other centers of congested maritime traffic. A small number of U-boats fought also in open areas in the middle or the south of the Atlantic. The criterion at this time was that the powerful Anglo-American air force was patrolling everywhere and in increasingly large numbers. That was a point which caused me great concern, for obviously the airplane, because of its speed, constitutes the most dangerous threat to the U-boat. And that was not a matter of fancy on my part, for from the summer of 1942—that is, a few months before September, when this order was issued—the losses of our U-boats through air attacks rose suddenly by more than 300 percent, I believe.

FLOTTENRICHTER KRANZBÜHLER: Admiral, for clarification of this point, I am giving you a diagram which I would like to submit in evidence to the Tribunal as Dönitz-99. Will you, with the use of the diagram, explain the curve of losses?

DÖNITZ: It is very clear that this diagram showing the losses of U-boats corroborates the statements which I have just made. One can see that up to June 1942 U-boat losses were kept within reasonable limits and then—in July 1942—what I have just described happened suddenly. Whereas the monthly losses up till then varied as the diagram shows between 4, 2, 5, 3, 4, or 2 U-boats, from July the losses per month jumped to 10, 11, 8, 13, 14. Then follow the two winter months December and January, which were used for a thorough overhauling of the ships; and that explains the decrease which, however, has no bearing on the trend of losses.

These developments caused me the greatest concern and resulted in a great number of orders to the submarine commanders on how they were to act while on the surface; for the losses were caused while the boats were above water, since the airplanes could sight or locate them; and so the boats had to limit their surface activities as much as possible. These losses also prompted me to issue memoranda to the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: When?

DÖNITZ: The memoranda were written in the summer, in June.

FLOTTENRICHTER KRANZBÜHLER: In June of 1942?

DÖNITZ: In June 1942 or July. At the pinnacle of my success, it occurred to me that air power might some day stifle us and force us under water. Thus, despite the huge successes which I still had at that time, my fears for the future were great, and that they were not imaginary is shown by the actual trend of losses after the submarines left the dockyard in February 1943; in that month 18 boats were lost; in March, 15; in April, 14. And then the losses jumped to 38.

The airplane, the surprise by airplane, and the equipment of the planes with radar—which in my opinion is, next to the atomic bomb, the decisive war-winning invention of the Anglo-Americans—brought about the collapse of U-boat warfare. The U-boats were forced under water, for they could not maintain their position on the surface at all. Not only were they located when the airplane spotted them, but this radar instrument actually located them up to 60 nautical miles away, beyond the range of sight, during the day and at night. Of course, this necessity of staying under water was impossible for the old U-boats, for they had to surface at least in order to recharge their batteries. This development forced me, therefore, to have the old U-boats equipped with the so-called

"Schnorchel," and to build up an entirely new U-boat force which could stay under water and which could travel from Germany to Japan, for example, without surfacing at all. It is evident, therefore, that I was in an increasingly dangerous situation.

FLOTTENRICHTER KRANZBÜHLER: Admiral, in order to characterize this situation I want to call your attention to your war diary of this time. This will have the Number Dönitz-18, reproduced on Page 32, Volume I. I want to read only the contents of the entries from the 2nd until the 14th of September; Page 32:

"On 2 September U-256 surprised and bombed by aircraft; unfit for sailing and diving;

"On 3 September aircraft sights U-boat;

"On 4 September U-756 has not reported despite request since 1 September when near convoy; presumed lost.

"On 5 September aircraft sights U-boat;

"On 6 September U-705 probably lost because of enemy aircraft attack;

"On 7 September U-130 bombed by Boeing bomber;

"On 8 September U-202 attacked by aircraft in Bay of Biscay.

"On 9 September . . ."

THE PRESIDENT: Dr. Kranzbühler, the defendant has already told us of the losses and of the reason for the losses. What is the good of giving us details of the fact that U-boats were fighting aircraft?

FLOTTENRICHTER KRANZBÜHLER: I wanted to show, Mr. President, that the testimony of Admiral Dönitz is confirmed by the entries in his diary of that time. But if the Tribunal . . .

THE PRESIDENT: That's a matter of common knowledge. We can read it. Anyhow, if you just draw our attention to the document we will read it. We don't need you to read the details of it.

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President. I will do it that way.

DÖNITZ: That is a typical and characteristic entry in my war diary of those weeks and days just before the issuance of my order; but I wanted to add the following: The aircraft were very dangerous especially for psychological reasons: when no aircraft is on the scene, the commander of the U-boat views his situation as perfectly clear but the next moment when the aircraft comes into sight, his situation is completely hopeless. And that happened not only to young commanders, but to old experienced commanders who remembered the good old times. Perhaps I may, quite briefly, give a clear-cut example. A U-boat needs one minute for the crew to come in through the hatch before it can submerge at all. An airplane

flies on the average 6,000 meters in one minute. The U-boat, therefore, in order to be able to submerge at all—and not to be bombed while it is still on the surface—must sight the aircraft from a distance of at least 6,000 meters. But that also is not sufficient, for even if the U-boat has submerged it still has not reached a safe depth. The U-boat, therefore, must sight the airplane even earlier, namely, at the extreme boundary of the field of vision. Therefore, it is an absolute condition of success that the U-boat is in a state of constant alert, that above all it proceeds at maximum speed, because the greater the speed the faster the U-boat submerges; and, secondly, that as few men as possible are on the tower so that they can come into the U-boat as quickly as possible which means that there should be no men on the upper deck at all, and so on. Now, rescue work, which necessitates being on the upper deck in order to bring help and take care of more people and which may even mean taking in tow a number of lifeboats, naturally completely interrupts the submarine's state of alert, and the U-boat is, as a consequence, hopelessly exposed to any attack from the air.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I wish now to take up the *Laconia* matter itself which I would be reluctant to have interrupted. If it is agreeable to the Tribunal, I would suggest that we have a recess now.

[A recess was taken.]

FLOTTENRICHTER KRANZBÜHLER: Admiral, you have just described the enemy's supremacy in the air in September 1942. During these September days you received the report about the sinking of the British transport *Laconia*. I submit to the Tribunal the war diaries concerning that incident under Numbers Dönitz-18, 20, 21, and 22. These are the war diaries of the commanders of U-boats and of the commanders of the submarines which took part in this action, Kapitänleutnants Hartenstein, Schacht and Würdemann. They are reproduced in the document book on Page 34 and the following pages. I shall read to you the report which you received. That is on Page 35 of the document book, 13 September, 0125 hours. I read:

"Wireless message sent on America circuit:

"Sunk by Hartenstein British ship *Laconia*."

Then the position is given and the message continues:

"Unfortunately with 1,500 Italian prisoners of war. Up to now picked up 90 . . ."

then the details, and the end is: "Request orders."

I had the document handed to you . . .

THE PRESIDENT: Where are you now?

FLOTTENRICHTER KRANZBÜHLER: On Page 35, Mr. President, the entry of 13 September, time 0125 hours, the number at the beginning of the line; at the bottom of the page.

[Turning to the defendant.] I had the documents handed to you to refresh your memory. Please tell me, first, what impression or what knowledge you had about this ship *Laconia* which had been reported sunk, and about its crew.

DÖNITZ: I knew from the handbook on armed British ships which we had at our disposal that the *Laconia* was armed with 14 guns. I concluded, therefore, that it would have a British crew of at least about 500 men. When I heard that there were also Italian prisoners on board, it was clear to me that this number would be further increased by the guards of the prisoners.

FLOTTENRICHTER KRANZBÜHLER: Please describe now, on the basis of the documents, the main events surrounding your order of 17 September, and elaborate, first, on the rescue or nonrescue of British or Italians and secondly, your concern for the safety of the U-boats in question.

DÖNITZ: When I received this report, I radioed to all U-boats in the whole area. I issued the order:

"Schacht, Group Eisbär, Würdemann and Wilamowitz, proceed to Hartenstein immediately."

Hartenstein was the commander who had sunk the ship. Later, I had to have several boats turn back because their distance from the scene was too great. The boat that was furthest from the area and received orders to participate in the rescue was 710 miles away, and therefore could not arrive before two days.

Above all I asked Hartenstein, the commander who had sunk the ship, whether the *Laconia* had sent out radio messages, because I hoped that as a result British and American ships would come to the rescue. Hartenstein affirmed that and, besides, he himself sent out the following radio message in English . . .

FLOTTENRICHTER KRANZBÜHLER: That is on Page 36, Mr. President, under time figure 0600.

DÖNITZ: "If any ship will assist the shipwrecked *Laconia* crew, I will not attack her, provided I am not being attacked by ship or air force."

Summing up briefly, I gained the impression from the reports of the U-boats that they began the rescue work with great zeal.

FLOTTENRICHTER KRANZBÜHLER: How many U-boats were there?

DÖNITZ: There were three or four submarines. I received reports that the numbers of those taken on board by each U-boat were between 100 and 200. I believe Hartenstein had 156 and another 131. I received reports which spoke of the crew being cared for and taken over from lifeboats; one report mentioned 35 Italians, 25 Englishmen, and 4 Poles; another, 30 Italians and 24 Englishmen; a third, 26 Italians, 39 Englishmen, and 3 Poles. I received reports about the towing of lifeboats towards the submarines. All these reports caused me the greatest concern because I knew exactly that this would not end well.

My concern at that time was expressed in a message to the submarines radioed four times, "Detailed boats to take over only so many as to remain fully able to dive." It is obvious that, if the narrow space of the submarine—our U-boats were half as big as the enemy's—is crowded with 100 to 200 additional people, the submarine is already in absolute danger, not to speak of its fitness to fight.

Furthermore, I sent the message, "All boats are to take on only so many people . . ."

THE PRESIDENT: Are these messages in the document?

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: Well, where are they? Why did he not refer to the time of them?

FLOTTENRICHTER KRANZBÜHLER: They are all messages contained in the three diaries of the U-boats. The first message is on Page 36, Mr. President, under group 0720. I will read it.

"Radio message received"—a message from Admiral Dönitz—

" 'Hartenstein remain near place of sinking. Maintain ability to dive. Detailed boats to take over only so many as to remain fully able to dive.' "

DÖNITZ: Then I sent another message:

"Safety of U-boat is not to be endangered under any circumstances."

FLOTTENRICHTER KRANZBÜHLER: This message is on Page 40, Mr. President, under the date of 17 September, 0140 hours.

DÖNITZ: "Take all measures with appropriate ruthlessness, including discontinuance of all rescue activities."

Furthermore, I sent the message:

"Boats must at all times be clear for crashdiving and underwater use."

FLOTTENRICHTER KRANZBÜHLER: That is on Page 37, under 0740, Heading 3.

DÖNITZ: "Beware of enemy interference by airplanes and submarines."

FLOTTENRICHTER KRANZBÜHLER: "All boats, also Hartenstein, take in only so many people that boats are completely ready for use under water."

DÖNITZ: That my concern was justified was clearly evident from the message which Hartenstein sent and which said that he had been attacked by bombs from an American bomber.

FLOTTENRICHTER KRANZBÜHLER: This message, Mr. President, is on Page 39, under 1311 hours. It is an emergency message, and under 2304 hours there is the whole text of the message which I should like to read.

DÖNITZ: At this occasion . . .

FLOTTENRICHTER KRANZBÜHLER: One moment, Admiral. The message reads:

> "Radiogram sent: From Hartenstein"—to Admiral Dönitz—"Bombed five times by American Liberator in low flight when towing four full boats in spite of a Red Cross flag, 4 square meters, on the bridge and good visibility. Both periscopes at present out of order. Breaking off rescue; all off board; putting out to West. Will repair."

DÖNITZ: Hartenstein, as can be seen from a later report, also had 55 Englishmen and 55 Italians on board his submarine at that time. During the first bombing attack one of the lifeboats was hit by a bomb and capsized, and according to a report on his return there were considerable losses among those who had been rescued.

During the second attack, one bomb exploded right in the middle of the submarine, and damaged it seriously; he reported that it was only by a miracle of German shipbuilding technique that the submarine did not fall to pieces.

THE PRESIDENT: Where has he gone to now? What page is he on?

FLOTTENRICHTER KRANZBÜHLER: He is speaking about the events which are described on Pages 38 and 39, Mr. President.

THE PRESIDENT: It would help the Tribunal, you know, if you kept some sort of order instead of going on to one page and then to 40, and then back to 38.

FLOTTENRICHTER KRANZBÜHLER: The reason is that we are using two different war diaries, Mr. President.

Admiral, would you tell us now what measures you took after Hartenstein's report that he had been attacked repeatedly in the course of the rescue measures?

DÖNITZ: I deliberated at length whether, after this experience, I should not break off all attempts at rescue; and beyond doubt, from the military point of view, that would have been the right thing to do, because the attack showed clearly in what way the U-boats were endangered.

That decision became more grave for me because I received a call from the Naval Operations Staff that the Führer did not wish me to risk any submarines in rescue work or to summon them from distant areas. A very heated conference with my staff ensued, and I can remember closing it with the statement, "I cannot throw these people into the water now. I will carry on."

Of course, it was clear to me that I would have to assume full responsibility for further losses, and from the military point of view this continuation of the rescue work was wrong. Of that I received proof from the submarine U-506 of Würdemann, who also reported—I believe on the following morning—that he was bombed by an airplane.

FLOTTENRICHTER KRANZBÜHLER: That report, Mr. President, is on Page 42 in the war diary of Würdemann, an entry of 17 September, at 2343 hours. He reported:

"Transfer of survivors to *Annamite* completed."—Then come details—"Attacked by heavy seaplane at noon. Fully ready for action."

DÖNITZ: The third submarine, Schacht's, the U-507, had sent a wireless message that he had so and so many men on board and was towing four lifeboats with Englishmen and Poles.

FLOTTENRICHTER KRANZBÜHLER: That is the report on Page 40, the first report.

DÖNITZ: Thereupon, of course, I ordered him to cast off these boats, because this burden made it impossible for him to dive.

FLOTTENRICHTER KRANZBÜHLER: That is the second message on Page 40.

DÖNITZ: Later, he again sent a long message, describing the supplying of the Italians and Englishmen in the boat.

FLOTTENRICHTER KRANZBÜHLER: That is on Page 41, at 2310 hours. I shall read that message:

"Transferred 163 Italians to *Annamite*."—The *Annamite* was a French cruiser which had been called to assist in the rescue.—"Navigation officer of *Laconia* and another English officer on board. Seven lifeboats with about 330 Englishmen and Poles, among them 15 women and 16 children, deposited at Qu. FE 9612, women and children kept aboard ship for one night. Supplied all shipwrecked with hot meal and drinks,

clothed and bandaged when necessary. Sighted four more boats at sea-anchor Qu. FE 9619."

Then there are further details which are not important.

DÖNITZ: Because I had ordered him to cast off the lifeboats and we considered this general message as a supplementary later report, he was admonished by another message; and from that, the Prosecution wrongly concluded that I had prohibited the rescue of Englishmen. That I did not prohibit it can be seen from the fact that I did not raise objection to the many reports speaking of the rescue of Englishmen.

Indeed, in the end I had the impression that the Italians did not fare very well in the rescue. That this impression was correct can be seen from the figures of those rescued. Of 811 Englishmen about 800 were rescued, and of 1,800 Italians 450.

FLOTTENRICHTER KRANZBÜHLER: Admiral, I want once more to clarify the dates of the entire action. The *Laconia* was torpedoed on 12 September. When was the air attack on the lifeboats?

DÖNITZ: On the 16th.

FLOTTENRICHTER KRANZBÜHLER: In the night of the 16th? On the 17th?

DÖNITZ: On the 16th.

FLOTTENRICHTER KRANZBÜHLER: On the 16th of September. So the rescue took how many days altogether?

DÖNITZ: Four days.

FLOTTENRICHTER KRANZBÜHLER: And afterwards was continued until when?

DÖNITZ: Until we turned them over to the French warships which had been notified by us.

FLOTTENRICHTER KRANZBÜHLER: Now, what is the connection between this incident of the *Laconia,* which you have just described, and the order which the Prosecution charges as an order for destruction?

DÖNITZ: Apart from my great and constant anxiety for the submarines and the strong feeling that the British and Americans had not helped in spite of the proximity of Freetown, I learned from this action very definitely that the time had passed when U-boats could carry out such operations on the surface without danger. The two bombing attacks showed clearly that in spite of good weather, in spite of the large numbers of people to be rescued who were more clearly visible to the aviators than in normal heavy sea conditions when few people have to be rescued, the danger to the

submarines was so great that, as the one responsible for the boats and the lives of the crews, I had to prohibit rescue activities in the face of the ever-present—I cannot express it differently—the ever-present tremendous Anglo-American air force. I want to mention, just as an example, that all the submarines which took part in that rescue operation were lost by bombing attack at their next action or soon afterwards. The situation in which the enemy kills the rescuers while they are exposing themselves to great personal danger is really and emphatically contrary to ordinary common sense and the elementary laws of warfare.

FLOTTENRICHTER KRANZBÜHLER: In the opinion of the Prosecution, Admiral, you used that incident to carry out in practice an idea which you had already cherished for a long time, namely, in the future to kill the shipwrecked. Please state your view on this.

DÖNITZ: Actually, I cannot say anything in the face of such an accusation. The whole question concerned rescue or nonrescue; the entire development leading up to that order speaks clearly against such an accusation. It was a fact that we rescued with devotion and were bombed while doing so; it was also a fact that the U-boat Command and I were faced with a serious decision and we acted in a humane way, which from a military point of view was wrong. I think, therefore, that no more words need be lost in rebuttal of this charge.

FLOTTENRICHTER KRANZBÜHLER: Admiral, I must put to you now the wording of that order from which the Prosecution draws its conclusions. I have read it before; in the second paragraph it says, "Rescue is contrary to the most primitive laws of warfare for the destruction of enemy ships and crews."

What does that sentence mean?

DÖNITZ: That sentence is, of course, in a sense intended to be a justification. Now the Prosecution says I could quite simply have ordered that safety did not permit it, that the predominance of the enemy's air force did not permit it—and as we have seen in the case of the *Laconia,* I did order that four times. But that reasoning had been worn out. It was a much-played record, if I may use the expression, and I was now anxious to state to the commanders of the submarines a reason which would exclude all discretion and all independent decisions of the commanders. For again and again I had the experience that, for the reasons mentioned before, a clear sky was judged too favorably by the U-boats and then the submarine was lost; or that a commander, in the role of rescuer, was in time no longer master of his own decisions, as the *Laconia* case showed; therefore under no circumstances—under no circumstances whatsoever—did I want to repeat the old reason which again would give

the U-boat commander the opportunity to say, "Well, at the moment there is no danger of an air attack"; that is, I did not want to give him a chance to act independently, to make his own decision, for instance, to say to himself, "Since the danger of air attack no longer permits." That is just what I did not want. I did not want an argument to arise in the mind of one of the 200 U-boat commanders. Nor did I want to say, "If somebody with great self-sacrifice rescues the enemy and in that process is killed by him, then that is a contradiction of the most elementary laws of warfare." I could have said that too. But I did not want to put it in that way, and therefore I worded the sentence as it now stands.

THE PRESIDENT: You haven't referred us back to the order, but are you referring to Page 36 of the Prosecution's trial brief, or rather British Document Book?

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President, Page 36 of the British Document Book.

THE PRESIDENT: There are two orders there, are there not?

FLOTTENRICHTER KRANZBÜHLER: No. It is one order with four numbered parts.

THE PRESIDENT: Well, there are two paragraphs, aren't there? There is Paragraph 1 and there is Paragraph 2 of 17 September 1942.

FLOTTENRICHTER KRANZBÜHLER: I think you mean the excerpt from the war diary of the Commander of the U-boats, which is also on Page 36 in the document book.

THE PRESIDENT: Hadn't you better read the phrase that you are referring to?

FLOTTENRICHTER KRANZBÜHLER: Yes. I am speaking now of the second sentence, dated 17 September, under heading 1, on Page 36 of the document book of the Prosecution.

THE PRESIDENT: Yes.

FLOTTENRICHTER KRANZBÜHLER: The second sentence reads, "Rescue is contrary to the most elementary laws of warfare for the destruction of enemy ships and crews." That is the sentence on which Admiral Dönitz commented just now.

THE PRESIDENT: On Page 36, the first order is an order to "All Commanding Officers" and Paragraph 1 of it begins, "No attempt of any kind must be made at rescuing members of ships . . ." Is that the paragraph you are referring to?

FLOTTENRICHTER KRANZBÜHLER: Yes, and of that I mean the second sentence, Mr. President. "Rescue is contrary to the most primitive laws of warfare for the destruction of enemy ships and crews."

THE PRESIDENT: What about the next paragraph, 17 September 1942, Paragraph 2?

FLOTTENRICHTER KRANZBÜHLER: I just wanted to put that to him. That is an entry in the war diary on which I would like to question him now.

Admiral, I now put to you an entry in your war diary of 17 September; there we find:

> "All commanders are again advised that attempts to rescue crews of ships sunk are contrary to the most elementary laws of warfare after enemy ships and their crews have been destroyed. Orders about picking up captains and chief engineers remain in force."

THE PRESIDENT: It is differently translated in our document book. You said: "After enemy ships have been destroyed . . ." In our translation it is ". . . . by annihilating enemy ships and their crews."

FLOTTENRICHTER KRANZBÜHLER: I think it should be "by," Mr. President, not "after."

DÖNITZ: This entry in the war diary refers to the radio order, the four regular radio messages which I sent during the *Laconia* incident and which were also acknowledged.

FLOTTENRICHTER KRANZBÜHLER: One moment, Admiral. Please explain to the Tribunal first how such entries in the war diary were made. Who kept the war diary? Did you yourself keep it or who did that?

DÖNITZ: Since I am not to conceal anything here, I have to say that the keeping of the war diary was a difficult matter for me because there were no reliable officers available for this task. That entry, as I suspected and as has been confirmed to me here, was made by a former chief petty officer who tried to condense my orders during the entire case into an entry of this sort. Of course, I was responsible for each entry; but this entry had in reality no actual consequences; my radio order was the essential thing.

FLOTTENRICHTER KRANZBÜHLER: Admiral, the decisive point here, in my opinion, is whether that entry is a record of your actual reflections or whether it is only an excerpt from the wireless order, an extract which had been noted down by a subordinate according to his best knowledge and ability.

DÖNITZ: The latter is correct. My own lengthy deliberations were concerned with the order of the Naval Operations Staff, the order of the Führer, and my own serious decision, whether or not I should discontinue that method of warfare; but they are not included in the war diary.

FLOTTENRICHTER KRANZBÜHLER: Admiral, will you explain what is meant in the war diary by the entry, "All commanders are advised again," and so on.

DÖNITZ: I do not know exactly what that means. My staff, which is here, has told me that it referred to the four radio messages which I had sent; because before the *Laconia* case no statement on this subject had been made. "Again," therefore, means that this was the fifth radio message.

FLOTTENRICHTER KRANZBÜHLER: Thus the order of 17 September 1942 was, for you, the end of the *Laconia* incident?

DÖNITZ: Yes.

FLOTTENRICHTER KRANZBÜHLER: To whom was it directed?

DÖNITZ: According to my best recollection, it was directed only to submarines on the High Seas. For the various operation areas—North Atlantic, Central Atlantic, South Atlantic—we had different radio channels. Since the other submarines were in contact with convoys and thus unable to carry out rescue measures, they could simply shelve the order. But I have now discovered that the order was sent out to all submarines, that is, on all channels; it was a technical matter of communication which of course could do no harm.

FLOTTENRICHTER KRANZBÜHLER: You said that the fundamental consideration underlying the entire order was the overwhelming danger of air attack. If that is correct, how could you in the same order maintain the directive for the rescue of captains and chief engineers? That can be found under Heading 2.

DÖNITZ: There is, of course, a great difference in risk between rescue measures for which the submarine has to stop, and men have to go on deck, and a brief surfacing to pick up a captain, because while merely surfacing the submarine remains in a state of alert, whereas otherwise that alertness is completely disrupted.

However, one thing is clear. There was a military purpose in the seizure of these captains for which I had received orders from the Naval Operations Staff. As a matter of principle, and generally, I would say that in the pursuit of a military aim, that is to say, not rescue work but the capture of important enemies, one must and can run a certain risk. Besides, that addition was not significant in my view because I knew that in practice it brought very meager results, I might say no results at all.

I remember quite clearly having asked myself, "Why do we still pick them up?" It was not our intention, however, to drop a general order of that importance. But the essential points are, first the lesser risk that the state of alert might not be maintained during rescue and, secondly, the pursuit of an important military aim.

FLOTTENRICHTER KRANZBÜHLER: What do you mean by the last sentence in the order, "Be harsh"?

DÖNITZ: I had preached to my U-boat commanders for 5½ years, that they should be hard towards themselves. And when giving this order I again felt that I had to emphasize to my commanders in a very drastic way my whole concern and my grave responsibility for the submarines, and thus the necessity of prohibiting rescue activities in view of the overwhelming power of the enemy air force. After all it is very definite that on one side there is the harshness of war, the necessity of saving one's own submarine, and on the other the traditional sentiment of the sailor.

FLOTTENRICHTER KRANZBÜHLER: You heard the witness Korvettenkapitän Möhle state in this Court that he misunderstood the order in the sense that survivors should be killed, and in several cases he instructed submarine commanders in that sense.

DÖNITZ: Möhle is . . .

FLOTTENRICHTER KRANZBÜHLER: One moment, Admiral. I want to put a question first. As commanding officer, do you not have to assume responsibility for a misunderstanding of your order?

DÖNITZ: Of course, I am responsible for all orders, for their form and their contents. Möhle, however, is the only person who had doubts about the meaning of that order. I regret that Möhle did not find occasion to clarify these doubts immediately, either through me, to whom everybody had access at all times, or through the numerous staff officers who, as members of my staff, were either also partly responsible or participated in the drafting of these orders; or, as another alternative, through his immediate superior in Kiel. I am convinced that the few U-boat commanders to whom he communicated his doubts remained quite unaffected by them. If there were any consequences I would of course assume responsibility for them.

FLOTTENRICHTER KRANZBÜHLER: You are acquainted with the case of Kapitänleutnant Eck, who after sinking the Greek steamer *Peleus* in the spring of 1944 actually fired on life boats. What is your view of this incident?

DÖNITZ: As Kapitänleutnant Eck stated at the end of his interrogation under oath, he knew nothing of Möhle's interpretation or Möhle's doubts nor of the completely twisted message and my decision in the case of U-386. That was the incident which Möhle mentioned when the submarine met pneumatic rafts with fliers, and I voiced my disapproval because he had not taken them on board. A written criticism of his actions was also forwarded to him. On the other hand, some authority pointed out that he had not

destroyed these survivors. Eck knew nothing about the interpretation or the doubts of the Möhle order, nor of this affair. He acted on his own decision, and his aim was not to kill survivors but to remove the wreckage; because he was certain that otherwise this wreckage would on the following day give a clue to Anglo-American planes and that they would spot and destroy him. His purpose, therefore, was entirely different from the one stated in the Möhle interpretation.

FLOTTENRICHTER KRANZBÜHLER: Eck said during his examination that he had counted on your approval of his actions. Did you ever hear anything at all about the Eck case during the war?

DÖNITZ: No. It was during my interrogation here that I heard about it, for Eck was taken prisoner during that same operation.

FLOTTENRICHTER KRANZBÜHLER: Do you approve of his actions, now that you know of them?

DÖNITZ: I do not approve his actions because, as I said before, in this respect one must not deviate from military ethics under any circumstances. However, I want to say that Kapitänleutnant Eck was faced with a very grave decision. He had to bear responsibility for his boat and his crew, and that responsibility is a serious one in time of war. Therefore, if for the reason that he believed he would otherwise be spotted and destroyed—and that reason was not unfounded, because in the same operational area and during the same time four submarines, I think, had been bombed—if he came to his decision for that reason, then a German court-martial would undoubtedly have taken it into consideration.

I believe that after the war one views events differently, and one does not fully realize the great responsibility which an unfortunate commander carries.

FLOTTENRICHTER KRANZBÜHLER: Apart from the Eck case did you, during the war, or after, hear of any other instance in which a U-boat commander fired on shipwrecked people or life rafts?

DÖNITZ: Not a single one.

FLOTTENRICHTER KRANZBÜHLER: You know, do you not, the documents of the Prosecution which describe the sinking of the ships *Noreen Mary* and *Antonico?* Do you or do you not recognize the soundness of these documents as evidence according to your experience in these matters?

DÖNITZ: No. I believe that they cannot stand the test of an impartial examination. We have a large number of similar reports about the other side, and we were always of the opinion, and also stated that opinion in writing to the Führer and the OKW, that one must view these cases with a good deal of skepticism, because a

shipwrecked person can easily believe that he is being fired on, whereas the shots may not be aimed at him at all, but at the ship, that is, misses of some sort.

The fact that the Prosecution gives just these two examples proves to me that my conviction is correct, that apart from the Eck case no further instances of this kind occurred during those long years in the ranks of the large German U-boat force.

FLOTTENRICHTER KRANZBÜHLER: You mentioned before the discussion with the Führer in May 1942, during which the problem whether it was permissible to kill survivors was examined, or at least touched upon by the Führer. Was that question re-examined at any time by the Commander-in-Chief of U-boats or the Naval Operations Staff?

DÖNITZ: When I had become Commander-in-Chief of the Navy...

FLOTTENRICHTER KRANZBÜHLER: That was in 1943?

DÖNITZ: I think in the summer of 1943 I received a letter from the Foreign Office in which I was informed that about 87 percent of the crews of merchant ships which had been sunk were returning home. I was told that was a disadvantage and was asked whether it was not possible to do something about it.

Thereupon I had a letter sent to the Foreign Office in which I wrote that I had already been forced to prohibit rescue because it endangered the submarines, but that other measures were out of the question for me.

FLOTTENRICHTER KRANZBÜHLER: There is an entry in the War Diary of the Naval Operations Staff which deals with this case. I submit this entry as Dönitz-42, on Pages 92 to 94 in Volume II of the document book.

I shall read as introduction the first and second sentences of Page 92. The entry is dated 4 April 1943.

> "The German Foreign Office pointed out a statement of the British Transport Minister according to which, following sinkings of merchant vessels, an average of 87 percent of the crews were saved. On the subject of this statement the Naval Operations Staff made a comprehensive reply to the Foreign Office."

Then there is the reply on the next pages, and I should like to call to your attention a part of it first, under Heading 1, about the number of convoy ships sunk. What is the importance of that in this connection?

DÖNITZ: That so many people certainly returned home.

FLOTTENRICHTER KRANZBÜHLER: Furthermore, under Heading 2, it is mentioned that the sailors do not need a long period of training, with the exception of officers, and that an order for the picking up of captains and chief engineers already existed. What is the meaning of that?

DÖNITZ: It is intended to emphasize that a matter like that is being judged in the wrong light.

FLOTTENRICHTER KRANZBÜHLER: One moment, Admiral. By "a matter like that," you mean the usefulness, from a military point of view, of killing the shipwrecked?

DÖNITZ: I mean that crews were always available to the enemy, or unskilled men could very quickly be trained.

FLOTTENRICHTER KRANZBÜHLER: Under Heading 4, you point to the great danger of reprisals against your own submarine crews. Did such reprisals against German U-boat crews occur at any time in the course of the war?

DÖNITZ: I do not know. I did not hear anything about reprisals in that respect. I only received reliable reports that when U-boats were bombed and destroyed from the air, the men swimming in the water were shot at. But whether these were individual acts or reprisals carried out on orders, I do not know. I assume they were individual acts.

FLOTTENRICHTER KRANZBÜHLER: The decisive point of the entire letter seems to be in Heading 3; I shall read that to you:

> "A directive to take action against lifeboats of sunken vessels and crew members drifting in the sea would, for psychological reasons, hardly be acceptable to U-boat crews, since it would be contrary to the innermost feelings of all sailors. Such a directive could only be considered if by it a decisive military success could be achieved."

Admiral, you yourself have repeatedly spoken about the harshness of war. Are you, nevertheless, of the opinion that psychologically the U-boat crews could not be expected to carry out such an order? And why?

DÖNITZ: We U-boat men knew that we had to fight a very hard war against the great sea powers. Germany had at her disposal for this naval warfare nothing but the U-boats. Therefore, from the beginning—already in peacetime—I trained the submarine crews in the spirit of pure idealism and patriotism.

That was necessary, and I continued that training throughout the war and supported it by very close personal contacts with the men at the bases. It was necessary to achieve very high morale,

very high fighting spirit, because otherwise the severe struggle and the enormous losses, as shown on the diagram, would have been morally impossible to bear. But in spite of these high losses we continued the fight, because it had to be; and we made up for our losses and again and again replenished our forces with volunteers full of enthusiasm and full of moral strength, just because morale was so high. And I would never, even at the time of our most serious losses, have permitted that these men be given an order which was unethical or which would damage their fighting morale; much less would I myself ever have given such an order, for I placed my whole confidence in that high fighting morale and endeavored to maintain it.

FLOTTENRICHTER KRANZBÜHLER: You said the U-boat forces were replenished with volunteers, did you?

DÖNITZ: We had practically only volunteers.

FLOTTENRICHTER KRANZBÜHLER: Also at the time of the highest losses?

DÖNITZ: Yes, even during the time of highest losses, during the period when everyone knew that he took part in an average of two missions and then was lost.

FLOTTENRICHTER KRANZBÜHLER: How high were your losses?

DÖNITZ: According to my recollection, our total losses were 640 or 670.

FLOTTENRICHTER KRANZBÜHLER: And crew members?

DÖNITZ: Altogether, we had 40,000 men in the submarine force. Of these 40,000 men 30,000 did not return, and of these 30,000, 25,000 were killed and only 5,000 were taken prisoner. The majority of the submarines was destroyed from the air in the vast areas of the sea, the Atlantic, where rescue was out of the question.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I come now to a new subject. Would this be a suitable time to recess?

[The Tribunal recessed until 1400 hours.]

Afternoon Session

FLOTTENRICHTER KRANZBÜHLER: I am turning now to the theme of the so-called conspiracy. The Prosecution is accusing you of participating from 1932, on the basis of your close connections with the Party, in a conspiracy to promote aggressive wars and commit war crimes. Where were you during the weeks of the seizure of power by the National Socialists in the early part of 1933?

DÖNITZ: Immediately after 30 January 1933, I believe it was on 1 February, I went on leave to the Dutch East Indies and Ceylon, a trip which lasted well into the summer of 1933. This leave journey had been granted me, at Grossadmiral Raeder's recommendation, by President Hindenburg.

FLOTTENRICHTER KRANZBÜHLER: After that, you became commander of a cruiser at a foreign station?

DÖNITZ: In the autumn of 1934 I went as captain of the cruiser *Emden* through the Atlantic, around Africa into the Indian Ocean, and back.

FLOTTENRICHTER KRANZBÜHLER: Before this sojourn abroad or after your return in 1935 and until you were appointed Commander-in-Chief of the Navy in the year 1943 were you politically active in any way?

DÖNITZ: I was not active politically until 1 May 1945, when I became head of the State, not before then.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution has submitted a document, namely, an affidavit by Ambassador Messersmith. It bears the number USA-57 (Document Number 1760-PS) and I have the pertinent extracts in my document book, Volume II, Page 100. In this affidavit, Ambassador Messersmith says that from 1930 until the spring of 1934 he acted as Consul General for the United States in Berlin. Then, until July 1937, he was in Vienna and from there he went to Washington. He gives an opinion about you with the remark, "Among the people whom I saw frequently and to whom my statements refer were the following. . . ." Then your name is mentioned. From this one must get the impression that during this period of time you were active in political circles in Berlin or Vienna. Is that correct?

DÖNITZ: No. At that time I was Lieutenant Commander and from the end of 1934 on I was Commander.

FLOTTENRICHTER KRANZBÜHLER: With the permission of the Tribunal I sent an interrogatory to Ambassador Messersmith

in order to determine upon what facts he was basing his opinion. This interrogatory was answered and I am submitting it as Exhibit Dönitz-45. The answers will be found on Page 102 of the document book, and I quote:

> "During my residence in Berlin and during my later frequent visits there as stated in my previous affidavits, I saw Admiral Karl Dönitz and spoke to him on several occasions. However, I kept no diary and I am unable to state with accuracy when and where the meetings occurred, the capacity in which Admiral Dönitz appeared there, or the topic or topics of our conversation. My judgment on Dönitz expressed in my previous affidavit is based on personal knowledge and on the general knowledge which I obtained from the various sources described in my previous affidavits."

Did you, Admiral, see and speak with Ambassador Messersmith anywhere and at any time?

DÖNITZ: I never saw him, and I hear his name here for the first time. Also, at the time in question, I was not in Berlin. I was in Wilhelmshaven on the North Sea coast or in the Indian Ocean. If he alleges to have spoken to me it would have had to be in Wilhelmshaven or in the Indian Ocean. Since neither is the case, I believe that he is mistaken and that he must have confused me with somebody else.

FLOTTENRICHTER KRANZBÜHLER: Were you a member of the NSDAP?

DÖNITZ: On 30 January 1944 I received from the Führer, as a decoration, the Golden Party Badge; and I assume that I thereby became an honorary member of the Party.

FLOTTENRICHTER KRANZBÜHLER: When did you become acquainted with Adolf Hitler and how often did you see him before you were appointed Commander-in-Chief of the Navy?

DÖNITZ: I saw Adolf Hitler for the first time when, in the presence of Grossadmiral Raeder in the autumn of 1934, I informed him of my departure for foreign parts as captain of the cruiser *Emden.* I saw him again on the day following my return with the *Emden.* From the autumn of 1934 until the outbreak of war in 1939, in 5 years, I saw him four times in all, including the two occasions when I reported to him as already mentioned.

FLOTTENRICHTER KRANZBÜHLER: And what were the other two occasions? Were they military or political occasions?

DÖNITZ: One was a military matter when he was watching a review of the fleet in the Baltic Sea and I stood next to him on

the bridge of the flagship in order to give the necessary explanations while two U-boats showed attack maneuvers.

The other occasion was an invitation to all high-ranking army and navy officers when the new Reich Chancellery in the Voss Strasse was completed. That was in 1938 or 1939. I saw him there but I did not speak with him.

FLOTTENRICHTER KRANZBÜHLER: How many times during the war, until your appointment as Commander-in-Chief, did you see the Führer?

DÖNITZ: In the years between 1939 and 1943 I saw the Führer four times, each time when short military reports about U-boat warfare were being made and always in the presence of large groups.

FLOTTENRICHTER KRANZBÜHLER: Until that time had you had any discussion which went beyond the purely military?

DÖNITZ: No, none at all.

FLOTTENRICHTER KRANZBÜHLER: When were you appointed Commander-in-Chief of the Navy as successor to Grossadmiral Raeder?

DÖNITZ: On 30 January 1943.

FLOTTENRICHTER KRANZBÜHLER: Was the war which Germany was waging at that time at an offensive or defensive stage?

DÖNITZ: At a decidedly defensive stage.

FLOTTENRICHTER KRANZBÜHLER: In your eyes was the position of Commander-in-Chief, which was offered to you, a political or a military position?

DÖNITZ: It was self-evidently a purely military position, namely, that of the first soldier at the head of the Navy. My appointment to this position also came about because of purely military reasons which motivated Grossadmiral Raeder to propose my name for this position. Purely military considerations were the decisive ones in respect to this appointment.

FLOTTENRICHTER KRANZBÜHLER: You know, Admiral, that the Prosecution draws very far-reaching conclusions from your acceptance of this appointment as Commander-in-Chief of the Navy, especially with reference to the conspiracy. The Prosecution contends that through your acceptance of this position you ratified the previous happenings, all the endeavors of the Party since 1920 or 1922, and the entire German policy, domestic and foreign, at least since 1933. Were you aware of the significance of this foreign policy? Did you take this into consideration at all?

DÖNITZ: The idea never entered my head. Nor do I believe that there is a soldier who, when he receives a military command, would entertain such thoughts or be conscious of such considerations. My appointment as Commander-in-Chief of the Navy represented for me an order which I of course had to obey, just as I had to obey every other military order, unless for reasons of health I was not able to do so. Since I was in good health and believed that I could be of use to the Navy, I naturally also accepted this command with inner conviction. Anything else would have been desertion or disobedience.

FLOTTENRICHTER KRANZBÜHLER: Then as Commander-in-Chief of the Navy you came into very close contact with Adolf Hitler. You also know just what conclusions the Prosecution draws from this relationship. Please tell me just what this relationship was and on what it was based?

DÖNITZ: In order to be brief, I might perhaps explain the matter as follows:

This relationship was based on three ties. First of all, I accepted and agreed to the national and social ideas of National Socialism: the national ideas which found expression in the honor and dignity of the nation, its freedom, and its equality among nations and its security; and the social tenets which had perhaps as their basis: no class struggle, but human and social respect of each person regardless of his class, profession, or economic position, and on the other hand, subordination of each and every one to the interests of the common weal. Naturally I regarded Adolf Hitler's high authority with admiration and joyfully acknowledged it, when in times of peace he succeeded so quickly and without bloodshed in realizing his national and social objectives.

My second tie was my oath. Adolf Hitler had, in a legal and lawful way, become the Supreme Commander of the Wehrmacht, to whom the Wehrmacht had sworn its oath of allegiance. That this oath was sacred to me is self-evident and I believe that decency in this world will everywhere be on the side of him who keeps his oath.

The third tie was my personal relationship: Before I became Commander-in-Chief of the Navy, I believe Hitler had no definite conception of me and my person. He had seen me too few times and always in large circles. How my relationship to him would shape itself was therefore a completely open question when I became Commander-in-Chief of the Navy. My start in this connection was very unfavorable. It was made difficult, first, by the imminent and then the actual collapse of U-boat warfare and, secondly, by my refusal, just as Grossadmiral Raeder had already refused, to scrap

the large ships, which in Hitler's opinion had no fighting value in view of the oppressive superiority of the foe. I, like Grossadmiral Raeder, had opposed the scrapping of these ships, and only after a quarrel did he finally agree. But, despite that, I noticed very soon that in Navy matters he had confidence in me and in other respects as well treated me with decided respect.

Adolf Hitler always saw in me only the first soldier of the Navy. He never asked for my advice in military matters which did not concern the Navy, either in regard to the Army or the Air Force; nor did I ever express my opinion about matters concerning the Army or the Air Force, because basically I did not have sufficient knowledge of these matters. Of course, he never consulted me on political matters of a domestic or foreign nature.

FLOTTENRICHTER KRANZBÜHLER: You said, Admiral, that he never asked you for advice on political matters. But those matters might have come up in connection with Navy questions. Did you not participate then either?

DÖNITZ: If by "political" you mean, for instance, consultations of the commanders with the so-called "National Socialist Leadership Officers," then, of course, I participated, because this came within the sphere of the Navy, or rather was to become a Navy concern. That was naturally the case.

FLOTTENRICHTER KRANZBÜHLER: Beyond those questions, did Hitler ever consider you a general adviser, as the Prosecution claims and as they concluded from the long list of meetings which you have had with Hitler since 1943 at his headquarters?

DÖNITZ: First of all, as a matter of principle, there can be no question of a general consultation with the Führer; as I have already said, the Führer asked for and received advice from me only in matters concerning the Navy and the conduct of naval warfare—matters exclusively and absolutely restricted to my sphere of activity.

FLOTTENRICHTER KRANZBÜHLER: According to the table submitted, between 1943 and 1945 you were called sometimes once and sometimes twice a month to the Führer's headquarters. Please describe to the Tribunal just what happened, as far as you were concerned, on a day like that at the Führer's headquarters—what you had to do there.

DÖNITZ: Until 2 or 3 months before the collapse, when the Führer was in Berlin, I flew to his headquarters about every 2 or 3 weeks, but only if I had some concrete Navy matter for which I needed his decision. On those occasions I participated in the noontime discussion of the general military situation, that is, the report which the Führer's staff made to him about what had taken place

on the fighting fronts within the last 24 hours. At these military discussions the Army and Air Force situation was of primary importance, and I spoke only when my Naval expert was reporting the naval situation and he needed me to supplement his report. Then at a given moment, which was fixed by the Adjutant's Office, I gave my military report which was the purpose of my journey. When rendering this report only those were present whom these matters concerned, that is, when it was a question of reinforcements, *et cetera,* Field Marshal Keitel or Generaloberst Jodl were generally present.

When I came to his headquarters every 2 or 3 weeks—later in 1944 there was sometimes an interval of 6 weeks—the Führer invited me to lunch. These invitations ceased completely after 20 July 1944, the day of the attempted assassination.

I never received from the Führer an order which in any way violated the ethics of war. Neither I nor anyone in the Navy—and this is my conviction—knew anything about the mass extermination of people, which I learned about here from the Indictment, or, as far as the concentration camps are concerned, after the capitulation in May 1945.

In Hitler I saw a powerful personality who had extraordinary intelligence and energy and a practically universal knowledge, from whom power seemed to emanate and who was possessed of a remarkable power of suggestion. On the other hand, I purposely very seldom went to his headquarters, for I had the feeling that I would best preserve my power of initiative that way and, secondly, because after several days, say 2 or 3 days at his headquarters, I had the feeling that I had to disengage myself from his power of suggestion. I am telling you this because in this connection I was doubtless more fortunate than his staff who were constantly exposed to his powerful personality with its power of suggestion.

FLOTTENRICHTER KRANZBÜHLER: You said just now, Admiral, that you never received an order which was in violation of military ethics. You know the Commando Order of the autumn of 1942. Did you not receive this order?

DÖNITZ: I was informed of this order after it was issued while I was still Commander of the U-boats. For the soldiers at the front this order was unequivocal. I had the feeling that it was a very grave matter; but under Point 1 of this order it was clearly and unequivocally expressed that members of the enemy forces, because of their behavior, because of the killing of prisoners, had placed themselves outside the Geneva Convention and that therefore the Führer had ordered reprisals and that those reprisal measures, in addition, had been published in the Wehrmacht report.

FLOTTENRICHTER KRANZBÜHLER: Therefore, the soldier who received this order had no right, no possibility, and no authority to demand a justification or an investigation; does this mean such an order was justified? As Commander of the U-boats did you have anything to do with the execution of this order?

DÖNITZ: No, not in the slightest.

FLOTTENRICHTER KRANZBÜHLER: As far as you remember, did you as Commander-in-Chief of the Navy have anything to do with the carrying out of this order?

DÖNITZ: As far as I remember I was never concerned with this order as Commander-in-Chief of the Navy. One should not forget, first, that this decree excludes expressly those taken prisoner in battles at sea and, second, that the Navy had no territorial authority on land, and for this latter reason found itself less often in a position of having to carry out any point of this order.

FLOTTENRICHTER KRANZBÜHLER: You know the document submitted by the Prosecution, which describes how in the summer of 1943 a Commando unit was shot in Norway. I mean the Prosecution's Exhibit GB-208. The incident is described there as showing that the crew of a Norwegian motor torpedo boat were taken prisoner on a Norwegian island. This motor torpedo boat was charged with belligerent missions at sea. The document does not say who took the crew prisoner, but it does say that the members of the crew were wearing their uniforms when they were taken prisoner, that they were interrogated by a naval officer, and that on the order of Admiral Von Schrader they were turned over to the SD. The SD later shot them. Did you know about this incident or was it reported to you as Commander-in-Chief?

DÖNITZ: I learned about this incident from the trial brief of the Prosecution.

FLOTTENRICHTER KRANZBÜHLER: Can you explain the fact that an incident of this nature was not brought to your attention? Would this not have had to be reported to you?

DÖNITZ: If the Navy was concerned in this matter, that is, if this crew had been captured by the Navy, Admiral Von Schrader, who was the commander there, would absolutely have had to report this matter to the Commander-in-Chief of the Navy. I am also convinced that he would have done so, for the regulations regarding this were unequivocal. I am also convinced that the naval expert at the Navy High Command, who was concerned with such matters, would have reported this to me as Commander-in-Chief.

FLOTTENRICHTER KRANZBÜHLER: What is your opinion about this case now that you have learned about it through the document of the Prosecution?

DÖNITZ: If it is correct that it concerns the crew of a motor torpedo boat which had belligerent missions at sea, then this measure, the shooting which took place, was entirely wrong in any case, for it was in direct opposition even to this Commando Order. But I consider it completely out of the question, for I do not believe that Admiral Von Schrader, whom I know personally to be an especially chivalrous sailor, would have had a hand in anything of this sort. From the circumstances of this incident, the fact that it was not reported to the High Command, that this incident, as has now been ascertained by perusal of the German newspapers of that time, was never mentioned in the Wehrmacht communiqué, as would have been the case if it had been a matter concerning the Wehrmacht, from all these circumstances I assume that the incident was as follows:

That the police arrested these people on the island; that they were taken from this island by vessel to Bergen; that there one or two, if I remember correctly, naval officers interrogated them, since the Navy, of course, was interested in this interrogation; and that then these people were handed over to the SD, since they had already been taken prisoner by the SD. I cannot explain it otherwise.

FLOTTENRICHTER KRANZBÜHLER: You wish to say, then, that in your opinion these men had never been prisoners of the Navy?

DÖNITZ: No. If they had been, a report to the High Command would have been made.

FLOTTENRICHTER KRANZBÜHLER: Quite apart from these questions I should like to ask you, did you not in your position as Commander-in-Chief, and during your visits to the Führer's headquarters, have experiences which made you consider disassociating yourself from Adolf Hitler?

DÖNITZ: I have already stated that as far as my activity was concerned, even at headquarters, I was strictly limited to my own department, since it was a peculiarity of the Führer's to listen to a person only about matters which were that person's express concern. It was also self-evident that at the discussions of the military situation only purely military matters were discussed, that is, no problems of domestic policy, of the SD, or the SS, unless it was a question of SS divisions in military service under one of the army commanders. Therefore I had no knowledge of all these things. As I have already said, I never received an order from the Führer which in any way violated military ethics. Thus I firmly believe that in every respect I kept the Navy unsullied down to the last man until the end. In naval warfare my attention was focused on

the sea; and the Navy, small as it was, tried to fulfill its duty according to its tasks. Therefore I had no reason at all to break with the Führer.

FLOTTENRICHTER KRANZBÜHLER: Such a reason would not necessarily refer to a crime; it could also have been for political considerations, having nothing to do with crimes. You have heard the question broached repeatedly as to whether there should have been a Putsch. Did you enter into contact with such a movement or did you yourself consider or attempt a Putsch?

DÖNITZ: No. The word "Putsch" has been used frequently in this court-room by a wide variety of people. It is easy to say so, but I believe that one would have had to realize the tremendous significance of such an activity.

The German nation was involved in a struggle of life and death. It was surrounded by enemies almost like a fortress. And it is clear, to keep to the simile of the fortress, that every disturbance from within would without doubt perforce have affected our military might and fighting power. Anyone, therefore, who violates his loyalty and his oath to plan and try to bring about an overthrow during such a struggle for survival must be most deeply convinced that the nation needs such an overthrow at all costs and must be aware of his responsibilty.

Despite this, every nation will judge such a man to be a traitor, and history will not vindicate him unless the success of the overthrow actually contributes to the welfare and prosperity of his people. This, however, would not have been the case in Germany.

If, for instance, the Putsch of 20 July had been successful, then a dissolution, if only a gradual one, would have resulted inside Germany—a fight against the bearers of weapons, here the SS, there another group, complete chaos inside Germany—for the firm structure of the State would gradually have been destroyed and disintegration and a reduction of our fighting power at the front would have inevitably resulted.

THE PRESIDENT: The Tribunal thinks that the defendant is making a long and political speech. It really hasn't very much to do with the questions with which we have to deal.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I was of the opinion that the question of whether a Commander-in-Chief is obliged to bring about a Putsch was regarded as a main point by the Prosecution, a point having a bearing on the question of whether he declared himself in agreement or not with the system which is being characterized as criminal. If the Tribunal considers this question irrelevant I do not want to press it further.

THE PRESIDENT: I don't think the Prosecution has put forward the view that anybody had to create a Putsch.

FLOTTENRICHTER KRANZBÜHLER: It seemed to me a self-evident view of the Prosecution.

Admiral, the Prosecution has submitted two documents, dating from the winter of 1943 and May 1945, containing speeches made by you to the troops. You are accused by the Prosecution of preaching National Socialist ideas to the troops. Please define your position on this point.

DÖNITZ: When in February 1943 I became Commander-in-Chief of the Navy, I was responsible for the fighting power of the entire Navy. A main source of strength in this war was the unity of our people. And those who had most to gain from this unity were the Armed Forces, for any rupture inside Germany would perforce have had an effect on the troops and would have reduced that fighting spirit which was their mission. The Navy, in particular, in the first World War, had had bitter experiences in this direction in 1917-18.

Therefore in all of my speeches I tried to preserve this unity and the feeling that we were the guarantors of this unity. This was necessary and right, and particularly necessary for me as a leader of troops. I could not preach disunity or dissolution, and it had its effect. Fighting power and discipline in the Navy were of a high standard until the end. And I believe that in every nation such an achievement is considered a proper and good achievement for a leader of troops. These are my reasons for talking the way I did.

FLOTTENRICHTER KRANZBÜHLER: On 30 April 1945 you became head of the State as Adolf Hitler's successor; and the Prosecution concludes from this that prior to that time also you must have been a close confidant of Hitler's, since only a confidant of his would have been chosen to be Hitler's successor where matters of state were concerned. Will you tell me how you came to be his successor and whether Hitler before that time ever spoke to you about this possibility?

DÖNITZ: From 20 July 1944 on I did not see Hitler alone, but only at the large discussions of the military situation. He never spoke to me about the question of a successor, not even by way of hinting. This was entirely natural and clear since, according to law, the Reich Marshal was his successor; and the regrettable misunderstanding between the Führer and the Reich Marshal did not occur until the end of April 1945, at a time when I was no longer in Berlin.

FLOTTENRICHTER KRANZBÜHLER: Where were you?

DÖNITZ: I was in Holstein. Therefore, I did not have the slightest inkling, nor did the Führer, that I was to become his successor.

FLOTTENRICHTER KRANZBÜHLER: Just how, through what measures or orders, did that actually come about?

DÖNITZ: On 30 April 1945, in the evening, I received a radio message from headquarters to the effect that the Führer was designating me his successor and that I was authorized to take at once all measures which I considered necessary.

The next morning, that is on 1 May, I received another radio message, a more detailed directive, which said that I was to be Reich President; Minister Goebbels, Reich Chancellor; Bormann, Party Minister; and Seyss-Inquart, Foreign Minister.

FLOTTENRICHTER KRANZBÜHLER: Did you adhere to this directive?

DÖNITZ: This radio message first of all contradicted the earlier radio message which clearly stated: "You can at once do everything you consider to be right." I did not and as a matter of principle never would adhere to this second radio message, for if I am to take responsibility, then no conditions must be imposed on me. Thirdly, under no circumstances would I have agreed to working with the people mentioned, with the exception of Seyss-Inquart.

In the early morning of 1 May I had already had a discussion with the Minister of Finance, Count Schwerin von Krosigk, and had asked him to take over the business of government, insofar as we could still talk about that. I had done this because in a chance discussion, which had taken place several days before, I had seen that we held much the same view, the view that the German people belonged to the Christian West, that the basis of future conditions of life is the absolute legal security of the individual and of private property.

FLOTTENRICHTER KRANZBÜHLER: Admiral, you know the so-called "Political Testament" of Adolf Hitler, in which you are charged with continuing the war. Did you receive an order of this sort at that time?

DÖNITZ: No. I saw this Testament for the first time a few weeks ago here, when it was made public in the press. As I have said, I would not have accepted any order, any restriction of my activity at the time when Germany's position was hopeless and I was given the responsibility.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution has submitted a document in which you exhorted the war leaders in the spring of 1945 to carry on tenaciously to the end. It is Exhibit

GB-212. You are accused in this connection of being a fanatical Nazi who was ready to carry on a hopeless war at the expense of the women and children of your people. Please define your position in respect to this particularly grave accusation.

DÖNITZ: In this connection I can say the following: In the spring of 1945 I was not head of the State; I was a soldier. To continue the fight or not to continue the fight was a political decision. The head of the State wanted to continue the fight. I as a soldier had to obey. It is an impossibility that in a state one soldier should declare, "I shall continue to fight," while another declares, "I shall not continue the fight." I could not have given any other advice, the way I saw things; and for the following reasons:

First: In the East the collapse of our front at one point meant the extermination of the people living behind that front. We knew that because of practical experiences and because of all the reports which we had about this. It was the belief of all the people that the soldier in the East had to do his military duty in these hard months of the war, these last hard months of the war. This was especially important because otherwise German women and children would have perished.

The Navy was involved to a considerable extent in the East. It had about 100,000 men on land, and the entire surface craft were concentrated in the Baltic for the transport of troops, weapons, wounded, and above all, refugees. Therefore the very existence of the German people in this last hard period depended above all on the soldiers carrying on tenaciously to the end.

Secondly: If we had capitulated in the first few months of the spring or in the winter of 1945, then from everything we knew about the enemy's intentions the country would, according to the Yalta Agreement, have been ruinously torn asunder and partitioned and the German land occupied in the same way as it is today.

Thirdly: Capitulation means that the army, the soldiers, stay where they are and become prisoners. That means that if we had capitulated in January or February 1945, 2 million soldiers in the East, for example, would have fallen into the hands of the Russians. That these millions could not possibly have been cared for during the cold winter is obvious; and we would have lost men on a very large scale, for even at the time of the capitulation in May 1945—that is, in the late spring—it was not possible in the West to take care of the large masses of prisoners according to the Geneva Convention. Then, as I have already said, since the Yalta Agreement would have been put into effect, we would have lost in the East a much larger number of people who had not yet fled from there.

When on 1 May I became head of the State, circumstances were different. By that time the fronts, the Eastern and Western fronts, had come so close to each other that in a few days people, troops, soldiers, armies, and the great masses of refugees could be transported, from the East to the West. When I became head of the State on 1 May, I therefore strove to make peace as quickly as possible and to capitulate, thus saving German blood and bringing German people from the East to the West; and I acted accordingly, already on 2 May, by making overtures to General Montgomery to capitulate for the territory facing his army, and for Holland and Denmark which we still held firmly; and immediately following that I opened negotiations with General Eisenhower.

The same basic principle—to save and preserve the German population—motivated me in the winter to face bitter necessity and keep on fighting. It was very painful that our cities were still being bombed to pieces and that through these bombing attacks and the continued fight more lives were lost. The number of these people is about 300,000 to 400,000, the majority of whom perished in the bombing attack of Dresden, which cannot be understood from a military point of view and which could not have been predicted. Nevertheless, this figure is relatively small compared with the millions of German people, soldiers and civilian population, we would have lost in the East if we had capitulated in the winter.

Therefore, in my opinion, it was necessary to act as I did: First while I was still a soldier, to call on my troops to keep up the fight, and afterwards, when I became head of the State in May, to capitulate at once. Thereby no German lives were lost; rather were they saved.

FLOTTENRICHTER KRANZBÜHLER: I have no further questions, Mr. President.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: Does any other member of the Defendants' Counsel wish to ask questions?

DR. WALTER SIEMERS (Counsel for Defendant Raeder): Admiral Dönitz, you have already explained that Grossadmiral Raeder and the Navy in the summer of 1939 did not believe, despite certain ominous signs, that war was about to break out. Since you saw Grossadmiral Raeder in the summer of 1939, I should like you briefly to supplement this point. First of all, on what occasion did you have a detailed conversation with Grossadmiral Raeder?

DÖNITZ: Grossadmiral Raeder embarked in the middle of July 1939 for submarine maneuvers of my fleet in the Baltic Sea. Following the maneuvers . . .

DR. SIEMERS: May I first ask you something? What sort of maneuvers were they? How large were they and where did they take place?

DÖNITZ: All submarines which had completed their tests I had assembled in the Baltic. I cannot remember the exact figure, but I think there were about 30. In the maneuvers I then showed Grossadmiral Raeder what these submarines could accomplish.

DR. SIEMERS: Were all those submarines capable of navigating in the Atlantic?

DÖNITZ: Yes, they were, and in addition there were the smaller submarines of lower tonnage, which could operate only as far as the North Sea.

DR. SIEMERS: That means, therefore, that at that time you had no more than two dozen submarines capable of navigating in the Atlantic; is that right?

DÖNITZ: That figure is too high. At that time we had not even 15 submarines capable of navigating in the Atlantic. At the outbreak of war, as far as I remember, we went to sea with fifteen submarines capable of navigating in the Atlantic.

DR. SIEMERS: During those few days when you were with Raeder at the maneuvers did you talk to him privately?

DÖNITZ: Yes. Grossadmiral Raeder told me—and he repeated this to the entire officers' corps during his final speech in Swinemünde—that the Führer had informed him that under no circumstances must a war in the West develop, for that would be *Finis Germaniae*. I asked for leave and immediately after the maneuvers I went on leave on 24 July for a 6-weeks' rest at Bad Gastein. I am merely stating that because it shows how we regarded the situation at that time.

DR. SIEMERS: But then the war came rather quickly, did it not, and you had to break off the leave which you had planned?

DÖNITZ: I was called back by telephone in the middle of August.

DR. SIEMERS: These words, that there would be no war with England, and the words, *Finis Germaniae*, did Raeder speak them during a private conversation or only in this speech at Swinemünde?

DÖNITZ: As far as the sense is concerned, yes. As far as the exact words are concerned, I cannot remember now what was

said in the main speech and what was said before. At any rate he certainly said it during the main speech.

DR. SIEMERS: Thank you very much.

DR. LATERNSER: Admiral, on 30 January 1943 you became Commander-in-Chief of the Navy and thereby a member of the group which is indicted here, the General Staff and the OKW?

DÖNITZ: Yes.

DR. LATERNSER: I wanted to ask you whether, after you were appointed, you had discussions with any of the members of these groups regarding plans or aims as outlined in the Indictment?

DÖNITZ: No, with none of them.

DR. LATERNSER: After you came to office, you dismissed all the senior commanders in the Navy. What were the reasons for this?

DÖNITZ: Since I was between 7 and 10 years younger than the other commanders in the Navy, for instance, Admiral Carls, Admiral Boehm, and others, it was naturally difficult for both parties. They were released for those reasons and, I believe, in spite of mutual respect and esteem.

DR. LATERNSER: How many commanders in the Navy were involved in this case?

DÖNITZ: I think three or four.

DR. LATERNSER: Was there close personal and official contact between the Navy on the one hand, and the Army and Air Force on the other?

DÖNITZ: No, not at all.

DR. LATERNSER: Did you know most of the members of the indicted group?

DÖNITZ: No. Before my time as Commander-in-Chief of the Navy, I knew only those with whom I happened to find myself in the same area. For instance, when I was in France I knew Field Marshal Von Rundstedt. After I became Commander-in-Chief I knew only those whom I met by chance when I was at headquarters where they had to submit some army report at the large military situation conference.

DR. LATERNSER: Then you did not know most of the members of these groups?

DÖNITZ: No.

DR. LATERNSER: Did those commanders who were known to you have a common political aim?

DÖNITZ: As far as the Army and the Air Force are concerned, I cannot say. As far as the Navy is concerned, the answer is "no." We were soldiers, and I was interested in what the soldier could accomplish, what his personality was; and I did not concern myself in the main about a political line of thought, unless it affected his performance as a soldier.

I want to mention, as an example, the fact that my closest colleague who from 1934 until the very end in 1945 always accompanied me as my adjutant and later as Chief of Staff, was extremely critical of National Socialism—to put it mildly—without our official collaboration or my personal attitude toward him being affected thereby, as this long period of working together shows.

DR. LATERNSER: May I inquire the name of this Chief of Staff to whom you have just referred?

DÖNITZ: Admiral Godt.

DR. LATERNSER: Admiral Godt. Do you know of any remarks made by Hitler regarding the attitude of the generals of the Army? The question refers only to those who belong to the indicted group.

DÖNITZ: At the discussions of the military situation, I naturally heard a hasty remark now and then about some army commander, but I cannot say today why it was made or to whom it referred.

DR. LATERNSER: You were quite often present during the situation conferences at the Führer's headquarters. Did you notice on such occasions that commanders-in-chief put forward in Hitler's presence views strikingly different from his?

DÖNITZ: Yes, that certainly happened.

DR. LATERNSER: Can you remember any particular instance?

DÖNITZ: I remember that when the question of falling back in the northern sector in the East was discussed, the army commander of this sector of the front was not of the same opinion as the Führer, and that this led to an argument.

DR. LATERNSER: Was that commander successful with his objections?

DÖNITZ: I think so, partly; but I should like you to ask an army officer about that because naturally I do not know these details so clearly and authentically.

DR. LATERNSER: Did the high military leaders of the Navy have anything to do with the Einsatzgruppen of the SD?

DÖNITZ: The Navy, no. As far as the Army is concerned, I do not believe so and I assume they did not. But please do not ask me about anything but the Navy.

DR. LATERNSER: Yes. This question referred only to the Navy. And now, some questions about regional Navy commanders. Did the commanders of the regional Navy Group Commands—Marine-Gruppenkommando—have extensive territorial authority?

DÖNITZ: No. According to the famous KG-40, that is War Organization 1940, the Navy had no territorial powers ashore. Its task ashore was to defend the coast under the command of the Army and according to sectors, that is, under the command of the divisions stationed in that particular sector. Apart from that they took part in battle in coastal waters.

DR. LATERNSER: So that regional commanders in the Navy were therefore simply troop commanders?

DÖNITZ: Yes.

DR. LATERNSER: Did the commanders of these regional Navy Group Commands have any influence on the formulation of orders regarding submarine warfare?

DÖNITZ: No, none whatever.

DR. LATERNSER: Did they influence decisions regarding what ships were to be sunk?

DÖNITZ: No, not at all.

DR. LATERNSER: And did they influence orders regarding the treatment of shipwrecked personnel?

DÖNITZ: No.

DR. LATERNSER: Now the holder of the office Chief of Naval Operations Staff also belongs to this group. What were the tasks of a Chief of Naval Operations Staff?

DÖNITZ: That was a high command, the office which worked out the purely military, tactical, and operational matters of the Navy.

DR. LATERNSER: Did the Chief of Naval Operations Staff have powers to issue orders?

DÖNITZ: No.

DR. LATERNSER: Then his position was similar to that of Chief of General Staff of the Air Force or of the Army?

DÖNITZ: I beg your pardon, I must first get the idea clear.

I assume that by "Chief of Naval Operations Staff" you mean the Chief of Staff of Naval Operations Staff? In Grossadmiral Raeder's time the name "Chief of Naval Operations Staff" was the same as "Commander-in-Chief of the Navy." The position about which you are asking was called "Chief of Staff of Naval

Operations Staff" while I was Commander-in-Chief of the Navy; the name "Chief of Staff of Naval Operations Staff" was changed to "Chief of Naval Operations Staff," but it was the same person and he was under the Commander-in-Chief of the Navy.

DR. LATERNSER: Was there in the Navy a staff of Admirals corresponding to the Army General Staff?

DÖNITZ: No, that did not exist. Such an institution did not exist. The necessary consultants, "Führungsgehilfen," as we called them, came from the front, served on the staff and then returned to the front.

DR. LATERNSER: Now I shall ask one last question. The witness Gisevius has stated in this courtroom that the highest military leaders had drifted into corruption by accepting gifts. Did you yourself receive a gift of any kind?

DÖNITZ: Apart from the salary to which I was entitled, I did not receive a penny; I received no gifts. And the same applies to all the officers of the Navy.

DR. LATERNSER: Thank you very much. I have no further questions.

DR. NELTE: Witness, you were present when the witness Gisevius was being examined here. That witness, without giving concrete facts, passed judgment in the following manner: "Keitel had one of the most influential positions in the Third Reich." And at another point he said, "I received very exact information regarding the tremendous influence which Keitel had on everything relating to the Army and accordingly also on those who represented the Army to the German people."

Will you, who can judge these matters, tell me whether that judgment of Defendant Keitel's position, his function, is correct?

DÖNITZ: I consider it very much exaggerated. I think that Field Marshal Keitel's position has been described here so unequivocally that it ought to be clear by now that what is contained in these words is not at all correct.

DR. NELTE: Am I to gather from this that you confirm as correct the description of the position and functions as given by Reich Marshal Göring and Field Marshal Keitel himself?

DÖNITZ: Yes, it is perfectly correct.

DR. NELTE: The witness Gisevius judged these matters, not on the basis of his own knowledge, but on the basis of information received from Admiral Canaris. Did you know Admiral Canaris?

DÖNITZ: I know Admiral Canaris from the time when he was still a member of the Navy.

DR. NELTE: Later on, when he was Chief of the Intelligence Service for foreign countries in the OKW, did you not have discussions with him? Did he not come to see you in his capacity as Chief of the Intelligence Service?

DÖNITZ: After I became Commander-in-Chief of the Navy, he visited me and he made a report about information matters which he thought he could place at the disposal of the Navy, my sphere of interest. But that was his last report to me. After that, of course, I received from him or his department written information reports which concerned the Navy.

DR. NELTE: Is it right for me to say that the position of Admiral Canaris as Chief of Intelligence, that is, espionage, counter-espionage, sabotage, and intelligence, was of great importance for the entire conduct of the war?

DÖNITZ: His office or his department?

DR. NELTE: He was the chief of the whole department, was he not?

DÖNITZ: Of course, he worked for the entire Armed Forces, all three branches of the Armed Forces; and I must say in that connection, if you ask me about the importance, that I was of the opinion that the information which we received from him and which interested the Navy was very meager indeed.

DR. NELTE: Did Canaris ever complain to you that Field Marshal Keitel at the OKW in any way obstructed and hampered him in carrying out his activity and that he could not pass on his intelligence and his reports?

DÖNITZ: He never did that and, of course, he could have done so only during the first report. No, he never did that.

DR. NELTE: With reference to Canaris I should like to know whether you can tell me anything about his character and consequently about his credibility as a source of information; whether you consider him reliable?

DÖNITZ: Admiral Canaris, while he was in the Navy, was an officer in whom not much confidence was shown. He was a man quite different from us—we used to say he had seven souls in his breast.

THE PRESIDENT: Dr. Nelte, we don't want to know about Admiral Canaris when he was in the Navy. I don't think there is any use telling us that Admiral Canaris was in the Navy. The only possible relevance would be his character afterwards when he was head of the intelligence.

DR. NELTE: Mr. President, do you not think that, if someone is unreliable and not credible as a commodore, he might also be so as

an Admiral in the OKW? Do you think that that could have changed during these years?

[Turning to the defendant.] But, nevertheless, I thank you for the answer to this question and I now ask you to answer the following question. Is it true that Hitler forbade all branches of the Armed Forces to make reports on any political matters and that he demanded that they confine themselves to their own sphere of work?

DÖNITZ: Yes, that is true.

DR. NELTE: Witness Gisevius has stated that Field Marshal Keitel threatened the officers under his command that he would hand them over to the Gestapo if they concerned themselves with political matters, and I ask you: Is it true that, according to the regulations applying to the Armed Forces, the Police—including the Gestapo, the SD, and the Criminal Police—had no jurisdiction at all over members of the Armed Forces, no matter what their rank was?

DÖNITZ: That is correct.

DR. NELTE: And is it also correct that the branches of the Armed Forces and also the OKW were at great pains to preserve this prerogative as far as the Police were concerned?

DÖNITZ: Yes, that is true.

DR. NELTE: So that any alleged threat, as mentioned by Gisevius, namely, the handing over of these people to the Gestapo, could not have been carried out?

DÖNITZ: No.

DR. NELTE: And it is correct for me to say that all officers of the OKW to whom such a statement might have been made naturally knew that, too?

DÖNITZ: Naturally. A soldier was subject to military jurisdiction, and nobody could interfere with the Armed Forces.

DR. NELTE: Moreover, did Field Marshal Keitel, as Chief of the OKW, have any right to deal with officers serving in the OKW without the knowledge and consent of the Commander-in-Chief of the branch of the Armed Forces to which the officer belonged? Could he promote such an officer, dismiss him, or anything like that?

DÖNITZ: An officer in a branch of the Armed Forces—for instance the Navy—was detailed to the OKW for a definite office and thus was sent by the Navy to the OKW. If this officer was to be given a different office in the OKW, then the branch of the Armed Forces to which he belonged would of course have to be consulted.

DR. NELTE: Is it not correct to say that these officers were still on the roster of their own branch of the Armed Forces, since the

OKW was not a branch of the Armed Forces and was not a formation; in other words, if there was a promotion, for instance, it would be ordered by the Navy? If Canaris was to have been promoted, you, as Commander-in-Chief of the Navy, would have had to order this promotion, assuming, of course, that you were in agreement with this proposal? It was merely a question of the actual command and of personnel?

DÖNITZ: These officers were detailed to the OKW. As far as I can recollect, they were still on the Navy roster under the heading, "Detailed from the Navy to the OKW."

DR. NELTE: But they did not leave the Navy as a branch of the Armed Forces, did they?

DÖNITZ: Promotion of such officers, I think, was decided by the Personnel Office of the Navy in agreement with the OKW, and I think also that no one could be detailed—I consider this self-evident—without agreement of the branch of the Armed Forces concerned.

DR. NELTE: Witness Gisevius has stated that certain men, among them Field Marshal Keitel for military matters, had formed a close ring of silence around Hitler so that nobody they did not want to let through could approach him. I ask you, was it possible for Field Marshal Keitel to keep you, as Commander-in-Chief of the Navy, away from Hitler, if you wanted to make a report to him?

DÖNITZ: No.

DR. NELTE: In the same way, was it possible for Field Marshal Keitel to keep the Commander-in-Chief of the Air Force away, if the latter wanted to report to the Führer?

DÖNITZ: No.

DR. NELTE: And how was it with the Commander-in-Chief of the Army?

DÖNITZ: I know nothing about that. When I was Commander-in-Chief of the Navy, there was no such position.

DR. NELTE: Then how was it with the Chief of General Staff of the Army? Could he at any time report to the Führer without going by way of Field Marshal Keitel?

DÖNITZ: It was not possible for Field Marshal Keitel to keep anyone away, and he would never have done so anyway.

DR. NELTE: In reply to a question of the Prosecution, witness Gisevius stated in this courtroom that his group forwarded reports to Field Marshal Keitel, by way of Admiral Canaris, which dealt with the crimes against humanity which have been adduced here

by the Prosecution. These reports had been camouflaged as "foreign reports."

I ask you, was a camouflaged "foreign report" of this sort ever submitted to you or sent to you by Canaris?

DÖNITZ: No, never.

DR. NELTE: From your knowledge of Keitel's personality, do you consider it possible that he would have withheld from the Führer an important report which was submitted to him?

DÖNITZ: I consider that absolutely out of the question.

THE PRESIDENT: I don't think that is a proper question for you to put.

DR. NELTE: With this question I wanted to end my inquiries on this point; but I still have one other question, which can be quickly dealt with.

Mr. President, in your communication of 26 March 1946, you gave me permission to submit an affidavit from Admiral Dönitz concerning the function and the position of the Chief of the OKW. I received this affidavit and handed it over to the Prosecution on 13 April for examination, and I understand that there are no objections to this affidavit. I have, however, not yet got back the original, which was handed over on 13 April, and I do not know whether it has in the meantime been submitted to the Tribunal by the Prosecution or not.

THE PRESIDENT: I don't know anything about the affidavit that you are dealing with.

DR. NELTE: I shall therefore be forced to put questions to Admiral Dönitz, which in large part are the same questions which I have already put to Field Marshal Keitel himself.

THE PRESIDENT: Do the Prosecution object to the affidavit at all?

DR. NELTE: No, they did not raise any objections. Therefore, if it had been returned I would have submitted it as an exhibit, without reading it.

THE PRESIDENT: Very well.

DR. NELTE: Thank you.

DR. DIX: Witness, you have stated that the SD and the Gestapo, in fact, the whole Police had no jurisdiction over members of the Armed Forces—for instance, they could not arrest members of the Armed Forces. Did I understand you correctly?

DÖNITZ: Yes.

DR. DIX: Do you know, Witness, that all the officers, or in any case most of them, who were suspected of being involved in the affair of 20 July, were arrested by members of the SD and sent for questioning by the SD and the SD office, where they were arrested, to prisons under the SD and there held under SD guard and not under any military guard?

DÖNITZ: No, I don't know that, because after 20 July, as far as I can remember, an order was issued specifically stating that the SD were to give to branches of the Armed Forces the names of those soldiers who had participated in the Putsch and that these soldiers were then to be dismissed from the branches of the Armed Forces, particularly to keep the principle of noninterference in the branches of the Armed Forces from being violated, and that then the SD would have the right to take action.

DR. DIX: That order did come out, but perhaps we can come to an explanation of this order if you answer further questions which I want to put to you.

Do you know, Witness, that the examination, the interrogation of those officers arrested in connection with 20 July, was carried out exclusively by officials of the SD or the Gestapo and not by officers, that is, members of military courts?

DÖNITZ: I can only judge as to the two cases which I had in the Navy. I received information that these two officers had participated. I had questions put to them, and they confirmed it. Thereupon these officers were dismissed from the Navy. After that the interrogation was, of course, not carried out by the Navy; but I know that my Navy court judges still concerned themselves about the officers and the interrogation.

DR. DIX: Who dismissed these men?

DÖNITZ: The Navy.

DR. DIX: That is you.

DÖNITZ: Yes.

DR. DIX: Do you know, Witness, that following upon the investigation regarding 20 July a committee of generals was formed under the chairmanship of Field Marshal Von Rundstedt?

DÖNITZ: Yes, I heard about that.

DR. DIX: And that this committee, on the basis of the records of the SD, decided whether the officer in question was to be dismissed from the Army or would have to leave the Army, so that he could be turned over to the civil court, namely, the People's Court?

DÖNITZ: That is not known to me.

DR. DIX: May I put it to you that I am of the opinion that the order which you have described correctly . . .

THE PRESIDENT: Dr. Dix, you are bound by his answer. He said he didn't know anything about it. You can't then put to him what you say happened. If he says he doesn't know anything about it, you must accept his answer.

DR. DIX: I just wanted to put to him that the order to which I referred earlier, which actually exists and which deals with the decision of whether a person is to be dismissed from the Army and surrendered to the civil authorities, has to do with this committee presided over by Field Marshal Von Rundstedt, which had to decide whether the officer in question was to be dismissed and thereby turned over, not to a military court, but to the People's Court.

THE PRESIDENT: I understood the witness to say he didn't know anything about it. I think you are bound by that answer.

DR. DIX: May I add something?

THE PRESIDENT: Who are you offering these questions for? You are counsel for the Defendant Schacht.

DR. DIX: My colleague's questions concerning Keitel were put to challenge the credibility of the witness Gisevius. Schacht's defense is naturally interested in the credibility of the witness Gisevius. The Defense has put three questions in connection with Gisevius' credibility, therefore, concerning the case for Schacht. May I add something?

THE PRESIDENT: Very well.

DR. DIX: I ask the questions to which your Lordship is objecting only because I think it possible that the answer of the witness may have been based on a mistake, namely, that he confused the general regulation stating that the soldier concerned must be dismissed before the SD could lay hands on him with the order stating that Von Rundstedt's committee would have to decide whether the officer in question was to be dismissed from the Army so that he could be handed over to the People's Court, not to the SD. The SD merely carried out the investigation, the preliminary interrogation.

THE PRESIDENT: What is it you want to ask him now?

DR. DIX: Admiral, I think you have understood my question, or do you want me to repeat it?

DÖNITZ: I cannot tell you any more than I have already done.

DR. SERVATIUS: Witness, as Commander of Submarines, you did once have some official contact with Sauckel?

DÖNITZ: No, not official but private.

DR. SERVATIUS: What was the occasion?

DÖNITZ: A submarine, which was to go into the Atlantic for 8 weeks, had reported to me that it had been discovered after leaving port that Gauleiter Sauckel had crept aboard. I immediately sent a radio message ordering the submarine to turn back and put him on the nearest outpost steamer.

DR. SERVATIUS: What was Sauckel's motive?

DÖNITZ: No doubt a belligerent one. He wanted to go to sea again.

DR. SERVATIUS: But he was a Gauleiter. Did he not have particular reasons in order to show that he too was ready to fight in the war and did not want to remain behind?

DÖNITZ: It surprised me that he, as a Gauleiter, should want to go to sea; but, at any rate, I considered that here was a man who had his heart in the right place.

DR. SERVATIUS: You believe that his motives were idealistic?

DÖNITZ: Certainly. Nothing much can be got out of a submarine trip.

DR. SERVATIUS: I have no further questions.

DR. STEINBAUER: Admiral, do you remember that in your capacity as head of the State on 1 May 1945 you ordered the Reich Commissioner for the Occupied Netherlands to come to Flensburg to report to you?

DÖNITZ: Yes.

DR. STEINBAUER: Do you also remember that on this occasion my client asked you to cancel the order originally sent to the Commander-in-Chief in the Netherlands to the effect that all locks and dykes should be blown up in the event of an attack, and to give the order that the mined blasting points be rendered harmless?

DÖNITZ: Yes, he did do that. It was in accordance with my own principles, for when I became head of the State I gave the order that all destruction in occupied territories, including for instance Czechoslovakia, should cease forthwith.

DR. STEINBAUER: At the end of his report, did he ask you for permission to return to his station in the Netherlands instead of remaining in Germany?

DÖNITZ: Yes, he did so repeatedly. He tried to get back—the weather situation was difficult—to the Netherlands by a motor torpedo boat.

DR. STEINBAUER: Thank you very much.

SIR DAVID MAXWELL-FYFE: Defendant, I want you first of all to answer some questions on your record after becoming Commander-in-Chief of the Navy on 30 January 1943. As Commander-in-Chief of the Navy you had the equivalent rank of a Minister of the Reich; is that not so?

DÖNITZ: Yes, that is correct.

SIR DAVID MAXWELL-FYFE: You had also the right to participate in meetings of the Reich Cabinet; had any such meetings taken place?

DÖNITZ: I was authorized to participate if such a meeting, or my participation in such a meeting, was ordered by the Führer. That is the wording of the order. But I must say that no meeting of the Reich Cabinet took place at the time I was Commander-in-Chief from 1943 on.

SIR DAVID MAXWELL-FYFE: From the time that you became Commander-in-Chief of the Navy, the government of the Reich was in a sense carried on from Hitler's headquarters; isn't that so?

DÖNITZ: That is correct.

SIR DAVID MAXWELL-FYFE: It was a military dictatorship in which the dictator saw those people he wanted at his military headquarters; that is right, is it not?

DÖNITZ: One cannot say "military dictatorship." It was not a dictatorship at all. There was a military sector and a civilian sector, and both components were united in the hands of the Führer.

SIR DAVID MAXWELL-FYFE: I see. I will take the last part of your answer, and we will not argue about the first.

Now, you saw him on 119 days in just over 2 years; do you agree to that?

DÖNITZ: Yes. But in that connection it must be stated that from 30 January 1943, when I became Commander-in-Chief of the Navy, until the end of January 1945—that is, approximately 2 years —the number was, I think, 57 times. The larger figure arises from the fact that in the last months of the war I took part in the noon-time conferences on the situation which took place daily in the Voss Strasse in Berlin.

SIR DAVID MAXWELL-FYFE: I want to ask you about certain of these. At a number of these meetings the Defendant Speer was present, was he not?

DÖNITZ: I cannot remember that he was present in person at the discussions of the military situation. Actually Minister Speer

as a civilian had nothing to do with a discussion of the military situation. But it is possible that he was there on some occasions, for instance, when tank production and other matters were discussed which were directly connected with the Führer's military considerations.

SIR DAVID MAXWELL-FYFE: That was exactly what I was going to put to you, that the occasions when the Defendant Speer were present were when you were going into matters of supply; that is, supply for the various services, including supply for the Navy.

DÖNITZ: Supply questions of the Navy were never discussed at the large conferences on the military situation. I discussed these matters with the Führer alone, as I have already said, usually in the presence of Jodl and Keitel. I submitted these matters to the Führer after I had come to an understanding with Minister Speer, to whom I had delegated all matters of naval armament when I became Commander-in-Chief of the Navy. That, in general, was the situation.

SIR DAVID MAXWELL-FYFE: But, like the head of every service, you would have had to learn about priorities and materials and labor. You would want to know how labor was going to be allocated during the next period, would you not?

DÖNITZ: I tried to bring it about that by a decision of the Führer Minister Speer would be given the order to build the largest possible number of new U-boats which I had to have at the time. But there were limitations as to the quantities to be allotted to each branch of the Armed Forces by Speer's Ministry.

SIR DAVID MAXWELL-FYFE: And, therefore, you would be very interested in discovering the figure of manpower for labor for naval supplies and for the other supplies, to see that you were getting your fair share, would you not?

DÖNITZ: I am very sorry, but I cannot give you an answer to that. I never knew, and I do not know today, how many workers Speer was using for the armament supply for the Navy. I do not even know whether Speer can give you the answer, because construction of submarines, for instance, was taking place all over the German Reich in many industrial plants. Parts were then assembled in the shipyards. Therefore I have no idea what the labor capacity allotted to the Navy was.

SIR DAVID MAXWELL-FYFE: Do you remember describing Speer as the man who holds the production of Europe in his hand? That was on 17 December 1943. I shall put the document to you in a little time. But do you remember describing him as that?

DÖNITZ: Yes; I know that quite well.

SIR DAVID MAXWELL-FYFE: And don't you know quite well also that Speer was getting his labor from foreign labor brought into the Reich?

DÖNITZ: I knew, of course, that there were foreign workers in Germany. It is just as self-evident that as Commander-in-Chief of the Navy I was not concerned as to how these workers were recruited. That was none of my business.

SIR DAVID MAXWELL-FYFE: Did not Gauleiter Sauckel tell you on the occasion of this trip that he had got 5 million foreign workers into the Reich, of whom only 200,000 had come voluntarily?

DÖNITZ: I did not have a single conversation with Gauleiter Sauckel. I have never had a discussion with anyone about questions referring to workers.

SIR DAVID MAXWELL-FYFE: Now, Defendant, you were head of a service department in the fifth and sixth years of the war. Wasn't Germany, like every other country, searching around to scrape the bottom of the barrel for labor for all its requirements? Weren't you in urgent need of labor, like every other country in the war?

DÖNITZ: I, too, think that we needed workers.

SIR DAVID MAXWELL-FYFE: Are you telling the Tribunal that you did not know after these conferences with Hitler and with Speer that you were getting this labor by forcing foreign labor to come into the Reich and be used?

DÖNITZ: During my conferences with Hitler and Speer, the system of obtaining these workers was never mentioned at all. The methods did not interest me at all. During these conferences the labor question was not discussed at all. I was interested merely in how many submarines I received, that is, how large my allotment was in terms of ships built.

SIR DAVID MAXWELL-FYFE: You tell the Tribunal you discussed that with Speer and he never told you where he was getting his labor? Is that your answer on this point?

DÖNITZ: Yes, that is my answer, and it is true.

SIR DAVID MAXWELL-FYFE: Do you remember, just before we passed from the industrial side of it, that at certain meetings the representatives for coal and transport, and Gauleiter Kaufmann, the Reich Commissioner for Shipping, were present at meetings which you had with the Führer?

DÖNITZ: No.

SIR DAVID MAXWELL-FYFE: You may take it from me that they are listed as being present at these meetings. Were you dealing with general problems of shipping and transport?

DÖNITZ: Never. As far as sea transport is concerned—that is true. I was thinking of things on land. I thought you meant on land. I have already stated that at the end of the war I was keenly interested in the tonnage of merchant vessels because this tonnage, which I needed in order to carry out military transports from Norway, from and to the East, and for refugee transports, was not under my jurisdiction but under that of Gauleiter Kaufmann, the Reich Commissioner for shipping. So at meetings and discussions which dealt with the sea transport situation I was, of course, present.

SIR DAVID MAXWELL-FYFE: Let us take another subject of these 119 days. On 39 of these days the Defendant Keitel was also present at the headquarters and at about the same number, the Defendant Jodl.

DÖNITZ: I am sorry; I did not understand the date.

SIR DAVID MAXWELL-FYFE: I will put it again. At 39 of these meetings between January 1943 and April 1945 the Defendant Keitel was present and at about the same number, the Defendant Jodl. Now, is it right that you discussed or listened to the discussion, in their presence, of the general strategical position?

DÖNITZ: I might say that the word "meeting" does not quite describe the matter. It was rather, as I . . .

SIR DAVID MAXWELL-FYFE: Well now, you choose the word; you give us the word.

DÖNITZ: It was, as I described it, a large-scale discussion of the military situation; and at this discussion I heard also, of course, reports about the army situation. That I explained before.

SIR DAVID MAXWELL-FYFE: I just want to get it quite clear that over these 2 years you had every opportunity of understanding and appreciating the military strategical position; that is so, isn't it?

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: Well now, on 20 of these occasions the Defendant Göring was present. The Defendant Göring has put himself forward in two capacities; as Commander-in-Chief of the Luftwaffe and as a politician. What was he doing on these 20 occasions?

DÖNITZ: Reich Marshal Göring was there as Commander-in-Chief of the Air Force when the military situation was discussed.

SIR DAVID MAXWELL-FYFE: And so from the Defendant Göring you would have a full knowledge and appreciation of the air situation and the position of the Luftwaffe during this period?

DÖNITZ: Insofar as my occasional presence at these discussions, in which only segments were dealt with—an over-all picture was never given at such a discussion—insofar as I could form an opinion from these segments, which naturally was always fragmentary. That was the reason why I have never made statements about military matters outside the Navy.

SIR DAVID MAXWELL-FYFE: Let me ask you just one further question on this point. Following up what Dr. Laternser asked, on 29 June 1944, apart from Keitel and Jodl and Göring, these defendants, Marshal Von Rundstedt and Marshal Rommel were also present; and may I remind you that that was 3 weeks after the Allies had invaded in the West. You were being given the opportunity, were you not, of getting the appreciation of the strategical position after the Allied invasion of Normandy, isn't that so?

DÖNITZ: Yes, from that I gained an impression of the situation in Normandy after the enemy had set foot there. I was in a position to report to the Führer which of my new small striking devices I could put to use in that sector.

SIR DAVID MAXWELL-FYFE: Now, let us change to another aspect of the government in general.

On a number of occasions the Reichsführer-SS Himmler was present at these conferences—shall I call them—isn't that so?

DÖNITZ: Yes. If the Reichsführer-SS Himmler was there, and as far as I remember that happened once or twice, it was because of his Waffen-SS.

SIR DAVID MAXWELL-FYFE: You may take it from me that he is shown as being there on at least seven occasions, and that Fegelein, who was his representative at the Führer's headquarters, is shown as being present on five occasions. What did Himmler discuss about the Waffen-SS—the doings of the Totenkopf division?

DÖNITZ: That cannot be right. Fegelein was always present during the discussions of the military situation; he never missed, because he was a permanent representative. If the Reichsführer was present during these discussions, he reported only on the Waffen-SS, those divisions of the Waffen-SS which were being used somewhere under the Army. I do not know the name of these individual divisions. I do not think they included the Totenkopf; I never heard they did; there was a Viking or . . .

SIR DAVID MAXWELL-FYFE: That was because they were being largely occupied in concentration camps, and you say that Himmler never mentioned that?

DÖNITZ: That Totenkopf divisions were used in concentration camps I learned here in Nuremberg. It wasn't mentioned there. I

have already said that during the military discussions only military matters were discussed.

SIR DAVID MAXWELL-FYFE: Now, the Defendant Kaltenbrunner is only reported as being present once, on 26 February 1945, when there was quite a considerable gathering of SS notabilities. What were you discussing with him then?

DÖNITZ: It is not correct that Kaltenbrunner was there only once. As far as I remember, he was there two, three, or four times; at any rate, during the last months of the war I saw him two, three, or four times. Kaltenbrunner never said a word there; as far as I remember, he just listened and stood about.

SIR DAVID MAXWELL-FYFE: What I want you to tell the Tribunal is: What was the subject of conversation when you had, not only the Defendant Kaltenbrunner there, but you had SS Obergruppenführer Steiner, your own captain in attendance, and Lieutenant General Winter? What were these gentlemen there for, and what were you hearing from them?

DÖNITZ: Who is the captain and who is Lieutenant General Günther?

SIR DAVID MAXWELL-FYFE: Captain Von Assmann; I took it he was the captain in attendance on you, though I may have been wrong—Kapitän zur See Von Assmann. Then there was Lieutenant General Winter, SS Obergruppenführer Steiner, and SS Obergruppenführer Kaltenbrunner. What were you discussing on the 26th of February 1945?

DÖNITZ: I must mention one fact in this connection: Captain Von Assmann was present at every discussion of the general situation.

SIR DAVID MAXWELL-FYFE: Just a moment. You can tell us something afterwards, but first of all listen to my question. What were you discussing with these people from the SS on 26 February 1945?

DÖNITZ: I cannot remember that now. I do remember, however, that Steiner received an order in regard to the army groups in Pomerania which were to make the push from the north to the south in order to relieve Berlin. I think that when Steiner was present perhaps this question, which did not concern me, was discussed.

SIR DAVID MAXWELL-FYFE: Now I just want you to think, before I leave this point. You have agreed with me that at a number of meetings, a large number, there were present Keitel and Jodl, at not quite so many Göring, who would give you the army and air situation in Germany; there was present the Defendant Speer, who would give you the production position; there was present Himmler,

or his representative Fegelein, who would give you the security position; and you yourself were present, who would give the naval position. At all meetings there was present the Führer who would make the decisions.

I put to you, Defendant, that you were taking as full a part in the government of Germany during these years as anyone, apart from Adolf Hitler himself.

DÖNITZ: In my opinion that description is not correct. At these discussions of the general situation neither Speer nor anybody else supplied a complete survey of the work being done. On the contrary, only acute questions of the day were discussed. As I have said, the happenings of the last 24 hours were discussed, and what should be done. That there was a staff there which in its reports gave an over-all picture—that was quite out of the question; it was not at all like that. The only one who had a complete picture of the situation was the Führer. At these discussions of the military situation the developments of the last 24 hours and the measures to be taken were discussed. These are the facts.

Therefore, one cannot say that any one of the participants had an over-all picture. Rather every one had a clear view of his own department for which he was responsible. An over-all picture in the mind of any of the participants is out of the question. Only the Führer had that.

SIR DAVID MAXWELL-FYFE: Well, I won't argue with you; but I suppose, Defendant, that you say—as we have heard from so many other defendants—that you knew nothing about the slave-labor program, you knew nothing about the extermination of the Jews, and you knew nothing about any of the bad conditions in concentration camps. I suppose you are going to tell us you knew nothing about them at all, are you?

DÖNITZ: That is self-evident, since we have heard here how all these things were kept secret; and if one bears in mind the fact that everyone in this war was pursuing his own tasks with the maximum of energy, then it is no wonder at all. To give an example, I learned of the conditions in concentration camps . . .

SIR DAVID MAXWELL-FYFE: I just want your answer for the moment, and you have given it to me. I want you to come to a point which was well within your own knowledge, and that is the order for the shooting of Commandos, which was issued by the Führer on 18 October 1942. You have told us that you got it when you were Flag Officer of U-boats. Now, do you remember the document by which the Naval Operations Staff distributed it? Do you remember that it said this:

"This order must not be distributed in writing by flotilla leaders, section commanders, or officers of this rank.

"After verbal notification to subordinate sections the above officers must hand this order over to the next higher section, which is responsible for its withdrawal and destruction."

Do you remember that?

DÖNITZ: Yes, I read that again when I saw the order here. But on the other side it says also that this measure had already been announced in the Wehrmacht order.

SIR DAVID MAXWELL-FYFE: What I want to know from you is: Why was there this tremendous secrecy about this order in the naval distribution?

DÖNITZ: I did not understand that question. I do not know whether tremendous secrecy was being observed at all. I am of the opinion that in 1942 all naval officers had been informed about it.

SIR DAVID MAXWELL-FYFE: This is on 28 October, 10 days after the order was issued. I am not going to quarrel with you about adjectives, Defendant. Let me put it this way: Why did the naval distribution require that degree of secrecy?

DÖNITZ: I do not know. I did not make up the distribution chart. As an officer at the front I received this order at that time. I do not know.

SIR DAVID MAXWELL-FYFE: Within 3 months you were Commander-in-Chief of the Navy. Did you never make any inquiries then?

DÖNITZ: I beg your pardon.

SIR DAVID MAXWELL-FYFE: Did you never make any inquiries?

DÖNITZ: No, I did not. I have told you that I saw this order as Commander of U-boats and that as far as my field of activities was concerned this order did not concern me in the least and, secondly, that men captured during naval engagements were expressly excepted; so, as far as that goes, this order at that time had no actual, no real significance. In view of the enormous number of things that I had to deal with when I became Commander-in-Chief of the Navy, it was quite natural that it did not occur to me to take up the question of this new order. I did not think of the order at all.

SIR DAVID MAXWELL-FYFE: I am going to put to you when the time comes a memorandum from the Naval Staff showing that it was put before you. Don't you remember that?

DÖNITZ: If you are referring to the memorandum which is in my trial brief, then I can only say that this memorandum was not submitted to me, as can be clearly seen from this note.

SIR DAVID MAXWELL-FYFE: What I want to ask you before the Tribunal adjourns is: Did you approve of this order or did you not?

DÖNITZ: I have already told you, as I...

SIR DAVID MAXWELL-FYFE: No, you haven't. I want you to tell the Tribunal now, and you can answer it either "I approved" or "I did not approve." Did you or did you not approve this order to your commanders?

DÖNITZ: Today I do not approve of that order since I have learned here that the basis was not so sound...

SIR DAVID MAXWELL-FYFE: Did you agree with it when you were Commander-in-Chief of the German Navy at the beginning of 1943? Did you approve of it then?

DÖNITZ: As Commander-in-Chief of the Navy I was not concerned with this order. While I was Commander of U-boats, as I have already explained to you, I considered it simply a reprisal order. It was not up to me to start an investigation or to take it up with the office which had issued the order to find out whether the basis was correct or not. It was not up to me to start an investigation on the basis of international law. And it was quite clear in Point 1 of the order that here the enemy, the opponent, had placed himself outside the bounds of the Geneva Convention, because they were murdering prisoners, and that therefore we had to do certain things as reprisals. Whether these reprisal measures were necessary or whether they were fully justified by the conditions in Point 1, that is something I did not and could not know.

SIR DAVID MAXWELL-FYFE: This is the last question. I want you to try and answer it with a straight answer if you can. At the beginning of 1943 did you or did you not approve of this order?

DÖNITZ: I cannot give you an answer, because at the beginning of 1943 I did not think of the order and was not concerned with it. Therefore I cannot say how that order affected me at that particular time. I can tell you only how it affected me when I read it as Commander of U-boats; and I can also tell you that today I reject this order, now that I have learned that the basis on which it was issued was not so sound. And thirdly, I can tell you that I personally rejected any kind of reprisals in naval warfare—every kind, in every case, and whatever the proposal.

SIR DAVID MAXWELL-FYFE: I will ask some more questions about it tomorrow, as the time has come to break off.

[The Tribunal adjourned until 10 May 1946 at 1000 hours.]

ONE HUNDRED AND TWENTY-SIXTH DAY

Friday, 10 May 1946

Morning Session

[The Defendant Dönitz resumed the stand.]

THE PRESIDENT: Sir David, I understand there are some supplementary applications for witnesses and documents, which would probably not take very long to discuss. Is that so?

SIR DAVID MAXWELL-FYFE: My Lord, I have not actually received the final instructions. I can find out in a very short time. I will get Major Barrington up. I am told that is so.

THE PRESIDENT: The Tribunal, therefore, proposes to sit in open session tomorrow until a quarter to 12 dealing with the Trial in the ordinary course and then to take the supplementary applications at a quarter to 12 and then to adjourn into closed session.

SIR DAVID MAXWELL-FYFE: My Lord, we shall be ready for them at a quarter to 12 tomorrow.

THE PRESIDENT: Very well.

SIR DAVID MAXWELL-FYFE: Defendant, the first document that I want you to look at with regard to the Führer Commando Order of 18 October 1942 is on Page 65 of the English document book and on Page 98 of the German document book. It is Document Number C-178, Exhibit USA-544. You will see that that document is dated 11 February 1943. That is some 12 days after you took over as Commander-in-Chief and you will see from the reference that it went to "1. SKL Ii." That is the international law and prize law division of your operations staff, isn't it—Admiral Eckardt's division?

DÖNITZ: No. It is addressed to the first section of the Naval Operations Staff, that is, the operational section. It originates with Eckardt and is sent to the first section, that is, to the section chief.

SIR DAVID MAXWELL-FYFE: But I think I am quite right—the reference about which I asked you, 1. SKL Ii, that is Admiral Eckardt's department. That is the reference for Admiral Eckardt's international law department?

DÖNITZ: No, no, no. It is the department in which Admiral Eckardt was also an official. Admiral Eckardt was an official in that department.

SIR DAVID MAXWELL-FYFE: And the third SKL in the next line is the press department as you said, isn't it?

DÖNITZ: No. The third section of the SKL collected information sent in for the Navy and reported on it.

SIR DAVID MAXWELL-FYFE: I note it was intelligence and press. Is that right or not?

DÖNITZ: Yes, it was intelligence and press.

SIR DAVID MAXWELL-FYFE: Now, I just want you to help the Tribunal on three points in this document. You remember I asked you yesterday about the secrecy standard of the original Führer order of 18 October. If you will look at the second paragraph you will see that it says:

> "... was given the protection of top secret merely because it is stated therein (1) that ... sabotage organization ... may have portentous consequences ... and (2) that the shooting of uniformed prisoners acting on military orders must be carried out even after they have surrendered voluntarily and asked for pardon."

Do you see that?

DÖNITZ: Yes, I have read it.

SIR DAVID MAXWELL-FYFE: You agree that that was one of the reasons for giving the order top secrecy?

DÖNITZ: This exchange of notes between Eckardt and the section chief was not submitted to me, as is obvious from the initials noted in the book ...

SIR DAVID MAXWELL-FYFE: Is that the reason for you not answering my question? Do you agree that that is the reason for giving top secrecy to this document?

DÖNITZ: I do not know. I cannot tell you that, because I did not issue this Commando Order. It says in the Commando Order, on the one hand that these people had killed prisoners. That is the way I had read it as Commander, U-boat Fleet; and on the other hand ...

SIR DAVID MAXWELL-FYFE: I shall give you one more opportunity of answering my question. You were Commander-in-Chief of the German Navy. Do you say that you are not able to answer this question: Is the reason stated in Paragraph 2 of this document a correct reason for attaching top secrecy to the Führer order of

18 October? Now you have this final opportunity of answering that question. Will you answer it or won't you?

DÖNITZ: Yes, I will do that. I consider it possible, particularly as the legal expert here thinks so. I do not know if it is correct, because I did not issue the order. On the other hand, it says in the order that these things would not be published in the army orders.

SIR DAVID MAXWELL-FYFE: That was the next point. The next paragraph says that what is to be published in the army orders is the annihilation of sabotage units in battle, not, of course, if they are shot—as I would say, murdered—quietly, by the SD after battle. I want you to note the next paragraph. The next paragraph raises the difficulty as to how many saboteurs were to be considered as a sabotage unit and suggests that up to ten would certainly be a sabotage unit.

Now, if you look at the last paragraph—I will read it to you quite slowly:

> "It is to be assumed that Counterintelligence III is acquainted with the Führer orders and will therefore reply accordingly to the objections of the Army General Staff and the Air Force Operations Staff. As far as the Navy is concerned, it remains to be seen whether or not this case should be used to make sure"—note the next words—"after a conference with the Commander-in-Chief of the Navy that all departments concerned have an entirely clear conception regarding the treatment of members of Commando units."

Are you telling the Tribunal that after that minute from Eckardt's department, which was to be shown to 1. SKL, your Chief-of-Staff's department, that you were never consulted upon it?

DÖNITZ: Yes, I do say that, and I will prove by means of a witness that there are no initials or distribution list here; and this witness will prove quite clearly that I did not receive a report on it.

SIR DAVID MAXWELL-FYFE: Admiral Wagner was your Chief of Staff?

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: All right, we will not occupy further time.

DÖNITZ: He was not my Chief of Staff; he was chief of this section. He was Section Chief 1. SKL, to which this order was directed. He knows beyond doubt that no report was made to me. The circumstances are perfectly clear.

SIR DAVID MAXWELL-FYFE: Well, I will leave that, if you say that you have not seen it; and I will ask you to look at Document Number 551-PS.

My Lord, I will pass the Tribunal a copy. This is Exhibit USA-551, and it was put in by General Taylor on 7 January.

[Turning to the defendant.] Now, that is a document which is dated 26 June 1944; and it deals with the Führer order; and it says how it will apply after the landing of the Allied Forces in France; and if you will look at the distribution, you will see that Number 4 is to the OKM, 1. SKL. That is the department on which you were good enough to correct me a moment ago. Now, did you—were you shown that document, which says that the Führer order is to apply to Commando units operating outside the immediate combat area in Normandy? Were you shown that document?

DÖNITZ: No, that was not shown to me in any circumstances—and quite rightly, as the Navy did not take part in the affair.

SIR DAVID MAXWELL-FYFE: You told me yesterday that you were concerned with the matter and that you had small boats operating in the Normandy operations. That is what you told me yesterday afternoon. You have changed your recollections since yesterday afternoon?

DÖNITZ: No, not at all. But these one-man submarines were floating on water and had nothing to do with Commandos on the land front. That is clear from this document, too—I do not know if it is the original of the 1. SKL because I cannot see the initial. I am convinced, however, that it was not submitted to me, because it had nothing to do with the Navy.

SIR DAVID MAXWELL-FYFE: I see. Will you just look at Document Number 537-PS, which is dated 30 July 1944.

My Lord, that is Exhibit USA-553, also put in by General Taylor on 7 January.

DÖNITZ: Where is it?

SIR DAVID MAXWELL-FYFE: The sergeant major will point to the place. That is the document applying the Commando Order to "military missions," and you will see again later that the distribution includes OKM, Department SKL. Did you see that order?

DÖNITZ: Yes, I can see it.

SIR DAVID MAXWELL-FYFE: Did you see it at the time that it was distributed, at the end of July 1944?

DÖNITZ: It is quite certain that this order was not submitted to me because again it has nothing to do with the Navy. The Navy had nothing to do with fighting partisans.

SIR DAVID MAXWELL-FYFE: I want you now just to look very quickly, because I do not want to spend too much time on it, at Document Number 512-PS.

My Lord, that is Exhibit USA-546, which was also put in by General Taylor on 7 January.

[Turning to the defendant.] Now, that is a report dealing with the question of whether members of Commandos should not be murdered immediately in order that they could be interrogated, and the question is whether that is covered by the last sentence of the Führer order, and I call your attention to the fact that it refers, with regard to interrogations, in the second sentence:

"Importance of this measure was proven in the cases of Glomfjord, the two-man torpedo at Trondheim, and the glider plane at Stavanger."

DÖNITZ: I cannot find it at the moment.

SIR DAVID MAXWELL-FYFE: It is 512-PS.

THE PRESIDENT: Sir David, perhaps you ought to read the first sentence.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases.

DÖNITZ: This document dates from 1942. At that time I was Commander of U-boats from the Atlantic Coast to the Bay of Biscay. I do not know this paper at all.

SIR DAVID MAXWELL-FYFE: That is your answer, but it is 14 December 1942; and the point is put up which is raised in the first sentence which My Lord has just directed be read:

"Top secret: According to the last sentence of the Führer order of 18 October, individual saboteurs can be spared for the time being in order to keep them for interrogation."

Then follows the sentence I have read. That was the point that was raised, and what I was going to ask you was, did that point come up to you when you took over the Commandership-in-Chief of the Navy in January 1943? Just look at the last sentence.

"The Red Cross and the BDS protested against the immediate carrying out of the Führer order . . ."

DÖNITZ: I beg your pardon, but I still cannot find where that is. I have not yet found the last sentence. Where is it?

THE PRESIDENT: Our translation says "after the immediate carrying out. . . ."

SIR DAVID MAXWELL-FYFE: "After," My Lord: I am sorry. It is my fault. I am greatly obliged to Your Lordship. "Protested after the immediate. . . ." I beg Your Lordship's pardon—I read it wrong.

DÖNITZ: That dates from December 1942.

SIR DAVID MAXWELL-FYFE: It is only six weeks before you took over.

DÖNITZ: Yes. I do not know this teleprint. In any case, that is probably not Red Cross, but probably Reiko See, Reich Commissioner for Shipping—or so I assume. BDS is probably the SS leader in Norway.

SIR DAVID MAXWELL-FYFE: But the point that I thought might have some interest for you was the two-man torpedoes. I thought that might have been referred to you as a matter of Navy interest. However, if it was not I will come to a document after you took over. Give the defendant Document Number 526-PS, on 10 May 1943.

My Lord, that is USA-502, and was put in by my friend Colonel Storey on 2 January.

[Turning to the defendant.] You see that that is an account—it is from the Defendant Jodl's department, and it is annotated for the Defendant Jodl's department—about an enemy cutter which carried out an operation from the Shetlands, a cutter of the Norwegian Navy; and it gives its armament, and it says that it was an organization for sabotaging strong points, battery positions, staff and troop billets, and bridges and that the Führer order was executed by the SD. That was a cutter which was blown up by the Norwegian Navy, I suppose after they were attacked, and ten prisoners were murdered. Was that brought to your attention?

DÖNITZ: This was shown to me during an interrogation, and I was also asked if I had not had a telephone conversation with Field Marshal Keitel. It was afterwards found to be the Wehrmacht area commander who had contacted the OKW. It was a matter for the Army and for the SD, not for the Navy.

SIR DAVID MAXWELL-FYFE: If you deny that you ever heard about that, will you turn to Page 100 of the document book.

My Lord, it is Page 67 of the British document book.

[Turning to the defendant.] And that is a summary, a summary of the trial of the SD . . .

DÖNITZ: Where is it? I cannot find it.

SIR DAVID MAXWELL-FYFE: Page 100, I have told you. If you will look for it, I think you will find it. It is Page 67 of the English, if you prefer to follow it in that language.

Now I will explain to you; I think you have read it before because you have referred to it. That is a summary by the judge advocate at the trial of the SS men of the evidence that was given, and I just want to see that you have it in mind.

If you will look at Paragraph 4, you will see that they set out from Lerwick, in the Shetlands, on this naval operation for the

purpose of making torpedo attacks on German shipping off the Norwegian coasts and for the purpose of laying mines. Paragraph 5:

"The defense did not challenge that each member of the crew was wearing uniform at the time of capture; and there was abundant evidence from many persons, several of whom were German, that they were wearing uniforms at all times after their capture."

Now. you mentioned this yesterday. You see that in Paragraph 6:

"Deponent states that the whole of the crew was captured and taken on board a German naval vessel which was under the command of Admiral Von Schrader, the Admiral of the West Coast. The crew were taken to the Bergenhus; and there they were interrogated by Lieutenant H. P. K. W. Fanger, a lieutenant of the Naval Reserve, on the orders of Korvettenkapitän Egon Drascher, both of the German Naval Counterintelligence; and this interrogation was carried out upon the orders of the Admiral of the West Coast. Lieutenant Fanger reported to the officer in charge of the intelligence branch at Bergen that, in his opinion, all members of the crew were entitled to be treated as prisoners of war and that officer in turn reported both orally and in writing to the Sea Commander, Bergen, and in writing to the Admiral of the West Coast."—And that is Admiral Von Schrader.

Now I want just to read you the one sentence which, in view of that, I do not think you will think is taken out of context of the evidence given by Lieutenant Fanger at this trial. He was asked:

"Have you any idea at all why these people were handed over to the SD?"

In answering that question I want you to tell me who was responsible for their being handed over. This was your officers, your outfit; that was the general in command of the Norwegian coast, Admiral Von Schrader in command of this section, whose people captured the crew. That is your own officers. Is it true what you told the Court yesterday that the crew were captured by the SD? Have you any reason to believe Lieutenant Fanger is not telling the truth?

THE PRESIDENT: What is that you were quoting from then?

SIR DAVID MAXWELL-FYFE: It is the shorthand notes taken on the trial of the SS.

THE PRESIDENT: Has it been admitted?

SIR DAVID MAXWELL-FYFE: No, My Lord, it has not been, but it was within Article 19.

FLOTTENRICHTER KRANZBÜHLER: I do not know the document which has been used. May I have it, please? Shorthand notes which I have not seen are being used; and according to the Tribunal's ruling on cross-examinations they must be given to me when the witness is heard.

SIR DAVID MAXWELL-FYFE: My Lord, with great respect, but this point arose yesterday when the defendant made certain statements with regard to Admiral Von Schrader. I am questioning these statements, and the only way I can do it is to use documents which I did not otherwise intend to use. I shall, of course, let Dr. Kranzbühler see them in due course.

THE PRESIDENT: Have you a copy of the German? That was to have been given in German, that evidence.

SIR DAVID MAXWELL-FYFE: I have only the English transcript and I am willing to let Dr. Kranzbühler see it, but it is all I have.

THE PRESIDENT: Have you got any other copy you can hand him?

SIR DAVID MAXWELL-FYFE: No, I only was sent one copy.

THE PRESIDENT: After you are through with it, will you please hand that copy to Dr. Kranzbühler?

SIR DAVID MAXWELL-FYFE: Yes, Sir.

THE PRESIDENT: Very well.

SIR DAVID MAXWELL-FYFE: Now, have you any reason to suppose, Defendant, that your officer, Lieutenant Fanger, is not telling the truth when he says that these men were captured by Admiral Von Schrader?

DÖNITZ: I have no reason to question that statement because the whole affair is completely unknown to me. I have already stated that the incident was not reported to me nor—as I can prove—to the High Command of the Navy; and I told you yesterday that I could only assume, in consequence, that these men—here it is, in Paragraph 6—were captured on an island, not by the Navy but by a detachment of the Police. Consequently Admiral Von Schrader said that they were not Navy prisoners but Police prisoners and must be handed back to the Police; and for this reason he did not make a report.

I assume that that is what happened. I myself cannot furnish the full details of this story or explain how it came about, because it was not reported to me at the time.

SIR DAVID MAXWELL-FYFE: That is the point I will get to in a moment. It nowhere states in this document that they were

captured by the Police, and in fact that they were captured by the forces under Admiral Von Schrader, who attacked this island to which this boat was moored.

DÖNITZ: I do not know about that. The document says that the men reached the island—the reason is not clear. That the men were brought back from the island afterwards in some sort of boat is quite clear; but naturally they might remain Police prisoners if they were captured there by the Police or the coast guards. That is the only explanation I can think of, in view of Admiral Von Schrader's personality.

SIR DAVID MAXWELL-FYFE: I just asked you—your own officer, Lieutenant Fanger, says they were captured by Admiral Von Schrader's troops, and you say if Lieutenant Fanger says that you have no reason to believe he is not telling the truth, is that right?

DÖNITZ: Yes. My estimate of Von Schrader's personality caused me to assume yesterday that it happened like that. Since I am informed today of a Lieutenant Fanger's statement, things may have happened differently for I may be wrong.

SIR DAVID MAXWELL-FYFE: Will you look at the end of Paragraph 8, the last sentence:

> "There was an interview between Blomberg of the SS and Admiral Von Schrader. . . ."

And then the last sentence:

> "Admiral Von Schrader told Blomberg that the crew of this torpedo boat were to be handed over in accordance with the Führer orders to the SD."—and then they were handed over.

And the official of the SD who carried out this interrogation stated at the trial:

> ". . . that after the interrogation he was of the opinion that the members of the crew were entitled to be treated as prisoners of war, and that he so informed his superior officer."

Despite this report and the representations of a superior officer the crew were dealt with under the Führer order and executed, and it describes how they were shot and their bodies secretly disposed of. Do you say you never heard about that?

DÖNITZ: No. I do say that and I have witnesses to prove it. If the SD official thought that these men did not come under that head, he would have been obliged to report that to his superiors and his superiors would have been obliged to take the appropriate steps.

SIR DAVID MAXWELL-FYFE: You say, you already take the position that the Navy had interrogated them, the Navy Intelligence said they should be treated as prisoners of war, and Admiral Von Schrader said they should be handed over to the SS and that the SS examined them and said they should be treated as prisoners of war,

and despite that these men are murdered? And you say you knew nothing about it? Did your Kapitän zur See Wildemann say anything to you concerning this? W-i-l-d-e-m-a-n-n.

DÖNITZ: I do not know him.

SIR DAVID MAXWELL-FYFE: Let me try to bring him to your recollection. At this time he was an officer on the staff of Admiral Von Schrader and dealt with this matter. Now, Kapitän Wildemann, and I suppose we should assume, unless you know anything to the contrary, that he is a trustworthy officer, says:

"I know that Von Schrader made a written report on this action, and I know of no reason why the handing over of the prisoners to the SD should not have been reported on."

Do you still say you never got any report from Von Schrader?

DÖNITZ: Yes, I still say that I did not receive any report, and I am equally convinced that the High Command of the Navy did not receive it either. I have a witness to prove that. I do not know where the report went. Admiral Von Schrader was not directly responsible to the High Command of the Navy; and the report may have been sent to the OKW, if this report was made at all. At any rate the High Command of the Navy did not receive a report on this particular matter, hence my assumption that these men were captured on the island in the first place by the Police. Otherwise, I think Admiral Von Schrader would have reported it.

SIR DAVID MAXWELL-FYFE: Before you make any further statement, I would like you to have in mind something further that Kapitän Wildemann said, which you know probably quite well, "After the capitulation Admiral Von Schrader many times said that the English would hold him responsible for handing over the prisoners to the SD," and Admiral Von Schrader was under orders to proceed to England as a prisoner when he shot himself. Did you know Admiral Von Schrader shot himself?

DÖNITZ: I heard it here.

SIR DAVID MAXWELL-FYFE: Did you know he was worried about being held responsible for this order?

DÖNITZ: No, I had not the slightest idea of that. I only heard of his suicide here.

SIR DAVID MAXWELL-FYFE: Are you still telling the Tribunal that Admiral Von Schrader made no report to you? Do you remember a few days after the capture of this M.T.B. Admiral Von Schrader received the Knight's Cross of the Iron Cross?

DÖNITZ: Yes, but that has no connection with this matter. He did not make a report on this matter and he did not go to Berlin for his Knight's Cross either, as far as I remember.

SIR DAVID MAXWELL-FYFE: Two other officers, Oberleutnant Nelle and Seeoberfähnrich Böhm were decorated; and in the recommendations and citations the capture of this M.T.B. was given as the reason for this decoration. You say you knew nothing about it?

DÖNITZ: I know nothing about it and I cannot know anything about it, because the competent superior officers would have dealt with these decorations and not myself. The High Command of the Navy did not receive a report on this matter; otherwise it would have been passed on to me. I have that much confidence in my High Command, and my witness will testify that he did not receive it either and that he must have done so if it had gone to the Navy.

SIR DAVID MAXWELL-FYFE: My final question, and I leave this subject: Admiral Von Schrader was your junior officer, and according to you, a very gallant officer. Do you want the Tribunal to understand that the responsibility which broke and made Admiral Von Schrader commit suicide was his responsibility, that he never consulted you and you were taking no responsibility for his acts? Is that what you want the Tribunal to understand?

DÖNITZ: Yes. I will swear to that; because if Admiral Von Schrader really committed suicide on account of this incident, then he did make a mistake because he treated naval personnel, engaged in a naval operation, in a wrong manner. If that is correct, he acted against orders. In any case, not even the slightest hint of the affair reached me.

THE PRESIDENT: Sir David, will you ask the witness what he meant when he said that Von Schrader was not directly under the Navy? He was under Admiral Ciliax, wasn't he, who was on leave at this time?

DÖNITZ: I said that he was not directly under the High Command of the Navy in Berlin. So if Admiral Von Schrader made any report on the affair, the report did not come to me directly but went to his immediate superior, who was in Norway.

SIR DAVID MAXWELL-FYFE: And that immediate superior was Admiral Ciliax who was on leave—but omit the leave for the moment; his immediate superior was Admiral Ciliax?

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: I want to put it perfectly fairly: Do you mean that for operations in Norway Admiral Ciliax was acting under the commander—correct me if I am wrong—was it General Von Falkenhorst? I cannot remember, perhaps you can help me. Do you remember that this Admiral was acting under the commander-in-chief in Norway so that you will tell the Tribunal...

DÖNITZ: Yes, as far as territory was concerned Admiral Ciliax was not under the High Command of the Navy but under the Wehrmacht Commander for Norway, General Von Falkenhorst; but I can only say that if Schrader's suicide is connected with this affair, then the Commando Order was not properly carried out when these men, who were naval personnel and had been sent into a naval action, were not treated as prisoners of war. If that is what happened—I do not know—then a mistake was made locally.

SIR DAVID MAXWELL-FYFE: But at any rate you say that despite these decorations for this action you as Commander-in-Chief of the Navy knew nothing about it at all. That is what you say?

DÖNITZ: I awarded the Knight's Cross to Admiral Von Schrader for entirely different reasons. I awarded it. I knew nothing about decorations awarded to the other people you mentioned. It has nothing to do with me because their immediate superiors would attend to that. Nor do I know whether these awards are really connected with the story or if they were given for other reasons. I still cannot imagine—and I do not believe—that a man like Admiral Von Schrader would treat naval personnel in this way. The document does not say that they were killed in a naval action but that they were captured on an island. It seems to me peculiar that the High Command of the Navy should have received no report on it, since orders to that effect had been given, and that the Wehrmacht report should make no reference to it in accordance with the Commando Order. All these factors are against it. I personally am unable to form an opinion as to the affair.

SIR DAVID MAXWELL-FYFE: Defendant, I am not going into details. You may take it from me that the evidence at the trial has been that this cutter was attacked by two naval task forces. If Dr. Kranzbühler finds I am wrong I will be happy to admit it. But we will pass on to another subject. Time is going.

Would you turn to Page 105 of the document book?

DÖNITZ: Then I can only say that it is a clear violation of orders and that the High Command of the Navy was not informed.

SIR DAVID MAXWELL-FYFE: I want you to come to this next point, 105 in the German, 71 in the English document book. Now we needn't have any trouble about this document because it is signed by you. It is a memorandum about the question of more labor for shipbuilding; and you are probably very familiar with it. But will you look at the first sentence?

DÖNITZ: I beg your pardon, but what page is it?

SIR DAVID MAXWELL-FYFE: Page 105, Exhibit GB-211 (Document Number C-195), English Page 71.

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: Now, if you would look at the first sentence,

"Furthermore, I propose reinforcing the shipyard working party by prisoners from the concentration camps. . . ."

I don't think we need trouble with coppersmiths, but if you will look at the end of the document, the very last, you will see Item 2 of the summing-up reads:

"12,000 concentration camp prisoners will be employed in the shipyards as additional labor. Security service agrees to this."

Now, that is your document, so . . .

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: So we may take it that you were familiar with the fact of the existence of concentration camps?

DÖNITZ: I have never denied it.

SIR DAVID MAXWELL-FYFE: And I think you went further, didn't you, when asked about this on 28 September? At that time you said:

"I generally knew that we had concentration camps. That is clear.

"Question: 'From whom did you learn that?'

"Answer: 'The whole German people knew that.' "

Don't you remember saying that?

DÖNITZ: Yes. The German people knew that concentration camps existed; but they did not know anything about the conditions and methods therein.

SIR DAVID MAXWELL-FYFE: It must have been rather a surprise for you when the Defendant Von Ribbentrop said he only heard of two: Oranienburg and Dachau? It was rather a surprise to you, was it?

DÖNITZ: No, it was not at all surprising, because I myself only knew of Dachau and Oranienburg.

SIR DAVID MAXWELL-FYFE: But you say here you knew there were concentration camps. Where did you think you were going to get your labor from? What camps?

DÖNITZ: From these camps.

SIR DAVID MAXWELL-FYFE: Did you think that all your labor was going to be German or that it was going to be partly foreign labor?

DÖNITZ: I did not think about that at all. I should like to explain now how these demands came to be made.

At the end of the war I was given the task of organizing large-scale transports in the Baltic Sea. Gradually the necessity arose to move the hundreds of thousands of poverty-stricken refugees out of the coastal areas of East and West Prussia where they were exposed to starvation, epidemics, and bombardment and to bring them to Germany. For this reason I made enquiries about merchant shipping, which was not actually under my jurisdiction; and in so doing I learned that out of eight ships ordered in Denmark, seven had been destroyed by saboteurs in the final stage of construction. I called a meeting of all the departments connected with those ships and asked them, "How can I help you so that we get shipping space and have damaged ships repaired more quickly?" I received suggestions from various quarters outside the Navy, including a suggestion that repair work, *et cetera,* might be speeded up by employing prisoners from the concentration camps. By way of justification, it was pointed out, in view of the excellent food conditions, such employment would be very popular. Since I knew nothing about the methods and conditions in the concentration camps, I included these proposals in my collection as a matter of course, especially as there was no question of making conditions worse for them, since they would be given better food when working. And I know that if I had done the opposite I could have been accused here of refusing these people an opportunity of having better food. I had not the slightest reason to do this, as I knew nothing about any concentration camp methods at the time.

SIR DAVID MAXWELL-FYFE: I am sure we are grateful for your explanation. But I just want you to tell me, after you had proposed that you should get 12,000 people from concentration camps, did you get them?

DÖNITZ: I do not know. I did not do anything more about that. After the meeting I had a memorandum prepared and submitted to the Führer . . .

SIR DAVID MAXWELL-FYFE: Keep to the answer. The answer is that you do not know whether you got them or not, assuming that you did get them.

DÖNITZ: I did not get them at all. I had nothing to do with shipyards and consequently I do not know how those responsible for the work in the shipyards received their additional workers. I just do not know.

SIR DAVID MAXWELL-FYFE: But you held a position of some responsibility; if you get 12,000 people from concentration camps into the shipbuilding industry, they would have to work alongside people who weren't in concentration camps, would they not?

DÖNITZ: Certainly, yes.

SIR DAVID MAXWELL-FYFE: Are you telling this Tribunal that when you ask for and you may have got 12,000 people out of concentration camps, who work alongside people not in concentration camps, that the conditions inside the concentration camps remain a secret to the other people and to all the rulers of Germany?

DÖNITZ: First of all, I do not know whether they came. Secondly, if they did come, I can very well imagine that they had orders not to talk; and thirdly, I do not even know what camps they came from and whether they were not people who had already been put into other camps on account of the work they accomplished. At any rate, I did not worry about the execution or methods, *et cetera,* because it was none of my business; I acted on behalf of the competent non-naval departments which required workmen in order to carry out repairs more quickly, so that something could be done about repairs for the merchant navy. That was my duty, considering the arrangements which I had to make for the re-transport of these refugees. I would do exactly the same thing again today. That is the position.

SIR DAVID MAXWELL-FYFE: Well now, just look a little down the document to the fourth paragraph, after it says, "Translator's note." If you will look at the English, the paragraph beginning: "Since elsewhere . . ." Have you found that? This is as you have told us, after you express your worry about the sabotage in the Danish and Norwegian shipyards. I just want you to look at your proposal to deal with saboteurs.

> "Since elsewhere measures for exacting atonement taken against whole working parties among whom sabotage occurred have proved successful and, for example, the shipyard sabotage in France was completely suppressed, possibly similar measures for the Scandinavian countries will come under consideration."

That is what you were suggesting, Defendant, a collective penalty against the whole working party where any sabotage occurred; isn't that so?

DÖNITZ: Yes. May I give an explanation in that connection?

SIR DAVID MAXWELL-FYFE: That is all right. But otherwise, it is so?

DÖNITZ: Agencies outside the Navy connected with shipbuilding stated at that meeting that sabotage had been prevented in France by the introduction of certain measures for exacting atonement. Through an affidavit by an officer who attended the meeting and drafted the minutes or the short memorandum, I have now ascertained that these measures at that time meant the withholding of the additional rations issued by the management of the shipyard.

That is what that meant. And, secondly, to come to Norway and Denmark, I told these people:

"It is impossible for us to build ships there with our foreign currency and our materials, only to have them smashed up by sabotage—and assuredly with the co-operation of the shipyard workmen—when they are nearly ready. What can we do against that?"

The answer I received was that the only way was to keep them away from saboteurs and to round them up in camps.

SIR DAVID MAXWELL-FYFE: The whole of this explanation that you have given us is in this document which is in front of the Tribunal. Have you anything to add to what is in the document?

DÖNITZ: Right. I have to add that the workmen were to be treated in exactly the same way as our own workmen who were also housed in barracks. The Danish and Norwegian workers would not have suffered the slightest discomfort.

SIR DAVID MAXWELL-FYFE: I want you to look at one more sentence:

"By the employment of the working parties concerned as concentration camp workers, their output would not only be increased by 100 percent but the cessation of their previously good wages might possibly result in their being considerably deterred from sabotage . . ."

That fairly represents your view of the way to treat Norwegian and Danish workers, does it not?

DÖNITZ: This was a safety measure to allow us to get control of the sabotage.

SIR DAVID MAXWELL-FYFE: Well now, just turn back to Page 70 of the English document book, Page 103 in the German document book. This is an extract from the minutes of a meeting between you and Hitler on 1 July 1944, signed by yourself. Have you got it?

DÖNITZ: Not yet.

SIR DAVID MAXWELL-FYFE: Page 70 in the English, Page 112 in the German text (Exhibit Number GB-210).

DÖNITZ: I have got it.

SIR DAVID MAXWELL-FYFE: In connection with the general strike in Copenhagen, the Führer says:

"The only weapon to deal with terror is terror. Court-martial proceedings create martyrs. History shows that the names of such men are on everybody's lips whereas there is silence with regard to the many thousands who have lost their lives in similar circumstances without court-martial proceedings."

Silence with regard to those who are condemned without trial! Do you agree with that statement of Hitler's?

DÖNITZ: No.

SIR DAVID MAXWELL-FYFE: Then why did you distribute it to Operations for circulation if you didn't approve of it?

DÖNITZ: I do not agree with this procedure, but it expresses an idea of the Führer's. This was not a discussion between the Führer and myself; it represents notes on the military situation generally, made by the officer who accompanied me, and contains widely differing points.

SIR DAVID MAXWELL-FYFE: Will you try and answer my question? It is a perfectly simple one. It is: Why did you distribute that to Operations for circulation? What was there in these few lines that was of interest to your officers? What did you think was valuable for your officers to know in that dreadful piece of savagery that I have just quoted to you?

DÖNITZ: It is very easy to explain that. The officer who made the minutes included it in order to inform our shipyard establishments that there was a general strike in Copenhagen. That one paragraph from the long situation discussions was included so that the shipyard establishments would know that there was a strike in Copenhagen. That was the whole point.

SIR DAVID MAXWELL-FYFE: I am suggesting to you, Defendant, that you circulated that to your officers to inculcate ruthlessness among them. That is my suggestion. What do you say to that?

DÖNITZ: I say that is entirely wrong. I may tell you also that I did not even hear the Führer make that statement, but it is possible that it was taken down by the accompanying officer, Wagner, for the reason which I have just given you, to warn our people of the general strike in Copenhagen.

SIR DAVID MAXWELL-FYFE: Now, Defendant, I am not going to argue with you about your knowledge of documents you have signed. I have questions which deal with documents you haven't signed, so let's pass on to the next one.

DÖNITZ: I know the document. I know it because I have signed it.

SIR DAVID MAXWELL-FYFE: Page 69, that is Page 4 in the English document book or Page 102 in the German document book (Exhibit Number GB-209), the minutes of the conference on 19 February 1945, between you and Hitler.

DÖNITZ: No, that is not correct.

SIR DAVID MAXWELL-FYFE: No, I beg your pardon. It is an extract from the minutes of the Hitler conference on 19 February 1945; and then there is a note . . .

DÖNITZ: No. It says here: Participation by the Commander-in-Chief of the Navy in situation discussion with the Führer. It was not a special conference on the general military situation.

SIR DAVID MAXWELL-FYFE: I did not mean to say "special." I said the Hitler conference on the 19th.

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: Now the first sentence of Paragraph 1 says:

> "The Führer is considering whether or not Germany should renounce the Geneva Convention."

The last sentence:

> "The Führer orders the Commander-in-Chief of the Navy to consider the pros and cons of this step and to state his opinion as soon as possible."

And if you look down at the next minutes of the conference on 20 February, which is headed, "Participation of C-in-C Navy at a Führer conference on 20 February at 1600 hours," it reads as follows:

> "The C-in-C Navy informed the Chief of the Armed Forces Operations Staff, Generaloberst Jodl, and the representative of the Minister for Foreign Affairs at the Führer's headquarters, Ambassador Hewel, of his views with regard to Germany's possible renunciation of the Geneva Convention. From a military standpoint there are no grounds for this step as far as the conduct of the war at sea is concerned. On the contrary, the disadvantages outweigh the advantages. Even from a general standpoint it appears to the Commander-in-Chief of the Navy that this measure would bring no advantage."

Now look to the last sentence:

> "It would be better to carry out measures considered necessary without warning and at all costs to save face with the world."

That means, put in blunt and brutal language, "Don't denounce the convention, but break it whenever it suits you," doesn't it?

DÖNITZ: No, that is not true.

SIR DAVID MAXWELL-FYFE: What does it mean? Let's take it word for word. "It would be better to carry out measures considered necessary. . . ." Aren't these measures contrary to the rules of the Geneva Convention?

DÖNITZ: I must give an explanation of that.

SIR DAVID MAXWELL-FYFE: Answer my question first and then make a statement. You have done it before but try to answer my question: "These measures considered necessary"—If they don't mean measures contrary to the terms of the Geneva Convention, what do they mean? Answer that question first.

DÖNITZ: They are measures against our own troops. I had heard, or I was told that the Führer intended, or had said, that because the front was yielding in the West and he feared that American and British propaganda might induce men to desert, he intended to leave the Geneva Convention, so I said to my staff, "How is it possible in this connection to contemplate abandoning lock, stock, and barrel a system of international law almost a century old?" I may have said something like this, "The necessary measures must be taken." There was no thought of concrete measures in that connection and no such measures were introduced. My own views on the treatment of prisoners of war can best be heard from the 8,000 British prisoners of war who were in my camps. That is the situation regarding this matter. All the chiefs of the Wehrmacht branches protested against the idea of renouncing the Geneva Convention. They were not in favor of this idea.

SIR DAVID MAXWELL-FYFE: Is that your total explanation of "to carry out measures considered necessary"? You have nothing else to add on that point? Well, I shall pass to another one. Do you remember saying to Dr. Kranzbühler yesterday that when you became Commander-in-Chief of the Navy the war was purely a defensive war? Do you remember saying that to your counsel yesterday?

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: That was not your fault, was it? It was not your fault that it remained limited to the countries engaged when you took over? Do you remember your advice to Hitler on the meeting of 14 May 1943?

DÖNITZ: No.

SIR DAVID MAXWELL-FYFE: Well, let me just suggest to you, do you remember the discussion about the sea transport for Sicily and Sardinia? Do you remember having a discussion on that, and do you remember your warning Hitler that your U-boat losses were 15 to 17 U-boats a month and that the position as to the future of the U-boat war looked rather gloomy? Do you remember that?

DÖNITZ: Yes, I do.

SIR DAVID MAXWELL-FYFE: And do you remember Hitler saying, "These losses are too heavy. This cannot go on." And did you say to Hitler:

"Now our only small outlet for sorties is the Bay of Biscay, and control of this involves great difficulties and already takes up ten days. C-in-C Navy sees best strategic solution in occupation of Spain, including Gibraltar."

And did Hitler remark:

"In 1940 this would still have been possible with the co-operation of Spain; but now, and against the will of Spain, our resources are no longer adequate."

Do you remember suggesting that to Hitler on 14 May 1943, and Hitler saying his resources were no longer adequate?

DÖNITZ: I do not think that I had proposed to the Führer that we should occupy Spain. I described the situation very clearly; I said that we were blocked in that small corner of the Bay of Biscay and that the situation would be different if there was much more room. That, however, does not suggest that, in consideration of the defensive situation, we should occupy Spain.

SIR DAVID MAXWELL-FYFE: Let us get it clearly, I am quoting you now from Admiral Assmann's headline diary, a verbatim translation.

The original is in London, My Lord. I will get the copy and put it in and certify it. This point again only arose yesterday and I haven't got it. I will have the original given and I will show Dr. Kranzbühler this entry.

[Turning to the defendant.] These are the words that Admiral Assmann records:

"C-in-C Navy continues: 'Now our only small outlet for sorties is the Bay of Biscay, and control of this involves great difficulties and already takes up 10 days.'

"C-in-C Navy sees best strategic solution in occupation of Spain, including Gibraltar."

Did you say that "the best strategic solution lies in the occupation of Spain, including Gibraltar"?

DÖNITZ: That is possible. If that is the wording you have got there, it is possible that that is the way I said it.

SIR DAVID MAXWELL-FYFE: My Lord, I was going to pass on from these general . . .

THE PRESIDENT: Sir David, have you passed altogether from C-158 on Page 69?

SIR DAVID MAXWELL-FYFE: My Lord, I had, but I can easily return to it, My Lord.

THE PRESIDENT: Well, the second sentence in Paragraph 1 appears to have some bearing upon the answers which the defendant has given.

SIR DAVID MAXWELL-FYFE: My Lord, I am sorry, but I tried to cut it as short—to the bare bone—and I am sorry if I omit matters.

[Turning to the defendant.] Defendant, would you return to the last document, C-158. That's the one about the Geneva Convention; it's Page 69 of the English book; 102 of the German, whichever you're following. The sergeant major will help you to find it.

Now, if you'll look at the first paragraph, after the sentence I read, "The Führer is considering whether or not Germany should renounce the Geneva Convention," it goes on:

> "Not only the Russians but also the Western Powers are violating international law by their actions against the defenseless population and the residential districts of the towns. It therefore appears expedient to adopt the same course in order to show the enemy that we are determined to fight with every means for our existence and, also, through this measure to urge our people to resist to the utmost."

Were not these, that are referred to there as the "same course"—were not these the "measures considered necessary" to which you were referring in the second minute?

DÖNITZ: The witness who drew up these two records will be able to explain exactly where and when this information was given. I myself was only told, just as the Reich Marshal testified, that the Führer was upset because our Western Front was not holding, and men were quite pleased to become American and English prisoners of war. That was how the whole thing began; and that was the information which I originally received.

I cannot give an opinion on these minutes which were drawn up by an officer. The best thing would be for Admiral Wagner to give more exact details of these matters. I cannot say more than that under oath. I was of the opinion that the renunciation of the Geneva Convention was in principle a great mistake and was wrong. I have given practical proof of my views on the treatment of prisoners of war. Everything else is wrong.

SIR DAVID MAXWELL-FYFE: I want to make quite clear the point that the Prosecution put against you as this: That you were prepared not to denounce the Convention, but you were prepared to take action contrary to the Convention and say nothing about it; and that's what I suggested is the effect of the last sentence, especially when read with these words in the first paragraph.

My Lord, I am going to pass to the war at sea.

DÖNITZ: I beg your pardon, but may I say one thing more? If measures are taken against desertion, they must be made public. They must have a deterrent effect; and so it never entered my head

to keep them secret. On the contrary my only thought was, "How is it possible to leave the Geneva Convention at all?" And that is what I was expressing.

SIR DAVID MAXWELL-FYFE: The document is clear.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

SIR DAVID MAXWELL-FYFE: Defendant, did you know that on the first day of the war the Navy put up to the Foreign Office that the maximum damage to England could only be achieved, with the naval forces you had, if U-boats were permitted the unrestricted use of arms without warning against Allied and neutral shipping in a wide area? From the first day of the war, did you know that the Navy put that up to the German Foreign Office?

DÖNITZ: I do not believe that the Naval Operations Staff at the time sent me a memorandum of that kind, if it was ever set up, which I do not know.

SIR DAVID MAXWELL-FYFE: Now, I want you to try and remember because it's quite important. You say that the naval command never informed the Flag Officer of U-boats that that was their view of the war?

DÖNITZ: I do not know. I cannot remember that the Naval War Staff ever informed me of such a letter to the Foreign Office. I do not believe they did; I do not know.

SIR DAVID MAXWELL-FYFE: Well, then, perhaps it would assist your memory if you looked at the letter.

My Lord, this is Document Number D-851 and it will become Exhibit Number GB-451.

DÖNITZ: No, I do not know this paper.

SIR DAVID MAXWELL-FYFE: Now, I just will take it by stages because, of course, you wouldn't know the first part; but I'll read it to you and then we'll look at the memorandum together.

"Submitted respectfully to the Secretary of State"—that would be Baron von Weizsäcker—"with the enclosed memorandum.

"The Chief of the Operational Department of the Naval High Command, Captain Fricke, informed me by telephone that the Führer was already dealing with this matter. The impression had, however, arisen here that the political connections had again to be gone into and brought to the Führer's notice anew.

Captain Fricke had therefore sent Korvettenkapitän Neubauer to the Foreign Office in order to discuss the matter further."

That's signed by Albrecht on 3 September 1939. Then there is the memorandum:

"The question of an unlimited U-boat war against England is discussed in the enclosed data submitted by the Naval High Command.

"The Navy has arrived at the conclusion that the maximum damage to England, which can be achieved with the forces available, can only be attained if the U-boats are permitted an unrestricted use of arms without warning against enemy and neutral shipping in the prohibited area indicated in the enclosed map.

"The Navy does not fail to realize that (a) Germany would thereby publicly disregard the agreement of 1936 regarding the prosecution of economic warfare, and (b) a military operation of this kind could not be justified on the basis of the hitherto generally accepted principles of international law."

And then it goes on to deal with it.

Are you telling the Tribunal that the Defendant Raeder never consulted or informed you before these data were submitted to the Foreign Office?

DÖNITZ: No, he did not do so, and that is shown by the fact that it is a memorandum from the Chief of the Operations Department to the Secretary of State, that is to say, a negotiation between Berlin and the Foreign Office; and the front-line commander, whose station was on the coast and who, for all practical purposes, was in charge of the U-boats, had nothing to do with it.

I do not know this letter.

SIR DAVID MAXWELL-FYFE: Well, are you saying that you went on with your activities at the beginning of the war without knowing that this was the view of the Naval High Command?

DÖNITZ: I was not informed about this letter. I have said already that my knowledge of it . . .

THE PRESIDENT: That wasn't an answer to the question. The question was whether you knew at the time that this was the view of the Naval High Command. Answer the question.

DÖNITZ: No, I did not know that. I knew that the view of the Naval High Command was to follow the measures of the enemy step by step. I knew that.

SIR DAVID MAXWELL-FYFE: But you see, that is the entire difference, Defendant. That is what you said at great length in giving your evidence the day before yesterday and yesterday, that

you were answering, step by step, the measures of the enemy. You gave that evidence. Do you say that you didn't know that this was the view of the Defendant Raeder, formed on the first day of the war? Do you say you didn't know it at all, you had no inkling that that was Raeder's view?

DÖNITZ: No; I did not know that because I did not know of this letter; and I do not know if that is Herr Raeder's view. I do not know.

SIR DAVID MAXWELL-FYFE: Well, again I don't want to argue with you; but if the Commander, the Chief of the Navy—and I think at that time he called himself chief of the naval war staff as well—allows the chief of his Operational Department to put this view forward to the Foreign Office—is it the practice of the German Navy to allow post captains to put forward a view like that when it is not held by the Commander-in-Chief?

It is ridiculous, isn't it? No Commander-in-Chief would allow a junior officer to put forward that view to the Foreign Office unless he held it, would he?

DÖNITZ: Will you please ask the Commander-in-Chief of the Navy, Raeder. I cannot give any information as to how this letter came to be written.

SIR DAVID MAXWELL-FYFE: I will do that with very great pleasure, Defendant; but at the moment, you see, I have got to question you on the matters that you put forward, and my next question is: Was it not in pursuance of the view and desire expressed in that memorandum that the U-boat command disregarded from the start the London Treaty about warning ships?

DÖNITZ: No, on the contrary, entirely on the contrary. In the West we wanted to avoid any further complications, and we endeavored as long as possible to fight according to the London Agreement. That can be seen from all the directives that the U-boats received.

THE PRESIDENT: Sir David, ought you perhaps to draw his attention to the penultimate paragraph in that memorandum?

SIR DAVID MAXWELL-FYFE: My Lord, I probably should. My Lord, I will read the three, because if you will notice it goes on:

> "The High Command does not assert that England can be beaten by unrestricted U-boat warfare. The cessation of traffic with the world trade center of England spells serious disruptions of their national economy for the neutrals, for which we can offer them no compensation.
>
> "Points of view based on foreign politics would favor using military method of unrestricted U-boat warfare only if

England gives us a justification, by her method of waging war, to order this form of warfare as a reprisal.

"It appears necessary, in view of the great importance in the field of foreign politics of the decision to be taken, that it should be arrived at not only as a result of military considerations, but taking into full account the needs of foreign politics."

I am greatly obliged, Your Lordship.

[Turning to the defendant.] Did you hear of any qualification of this view which was arrived at on considerations of foreign politics? Did you hear anything about that?

DÖNITZ: No, I can only repeat that I saw this document here for the first time.

SIR DAVID MAXWELL-FYFE: I see. Well now, I would like you, just before we go on to the question, to look at Page 19 of the English document book, Page 49 of the German.

My Lord, the whole of the treaty, which is very short, is set out there. My Lord, I have the formal copy if Your Lordship would like to see it, but it is set out in these two paragraphs.

[Turning to the defendant.] You see:

"1. In action with regard to merchant ships, submarines must conform to the rules of international law to which surface vessels are subjected.

"2. In particular, except in the case of persistent refusal to stop on being duly summoned or of active resistance to visit or search, a warship, whether a surface vessel or submarine, may not sink or render incapable of navigation a merchant vessel without having first placed passengers, crew, and ship's papers in a place of safety. For this purpose the ship's boats are not regarded as a place of safety unless the safety of the passengers and crew is assured in the existing sea and weather conditions by the proximity of land, or the presence of another vessel which is in position to take them on board."

I had better remind you of that because I have some questions to put to you upon it.

Would you turn over the page and look at the foot of Page 20 in the English document book—it is either Page 50 or 51 in the German document book—where there are some figures set out.

Have you got the page?

DÖNITZ: Yes, I have read it.

SIR DAVID MAXWELL-FYFE: You read it. You see that it says in the two sentences before:

"In a certain number of early cases the German commander allowed the crew of the merchant vessel to get clear; and he even made some provision for them before he destroyed the vessel. Such destruction was in accordance with Article 72 of the Prize Ordinance; and therefore, for the purpose of this paper, the Germans have been given the benefit of the doubt in such cases."

The following are the figures on record. This is for the first year of the war:

"Ships sunk: 241.

"Recorded attacks: 221.

"Illegal attacks: 112. At least 79 of these 112 ships were torpedoed without warning. This does not, of course, include convoy ships."

I wanted you to be quite clear, Defendant, that it excludes, first of all, ships where any measures had been taken for the safety of the crew and secondly, it excludes convoy ships.

Now, do you dispute these figures in any way, that there were 79 attacks without warning in the first year of the war?

DÖNITZ: Yes, I do. These figures cannot be checked. Yesterday I stated that in consequence of the use of arms by ships we had to take other measures. So I cannot check whether this report, which for other reasons looks very like propaganda to me, takes into consideration the behavior of the crews and their resistance, *et cetera.* That is to say, it is impossible for me to check these figures or to say on what they are based. At any rate, the German point of view was that it was legal considering that the ships were armed and that they transmitted intelligence—were part of an intelligence organization—and that from now on action would be taken against these ships without warning. I have already mentioned the fact that England acted in exactly the same way, and so did other nations.

SIR DAVID MAXWELL-FYFE: I am going to ask you some questions about that, but let's just take one example. Was any warning given before the *Athenia* was sunk?

DÖNITZ: No, I have already stated that that was a mistake; the *Athenia* was taken for an auxiliary cruiser. The sinking of an auxiliary cruiser without warning is quite legal. I have also stated already that on a thorough examination of the case, I have found that the commander should have been more cautious and that is why he was punished.

SIR DAVID MAXWELL-FYFE: I just want to get your view, Defendant. Did it ever occur to you that in the case of a merchant ship, if it were sunk without warning, it meant either death or

terrible suffering to the crew and to these merchant seamen? Did that ever occur to you?

DÖNITZ: If merchant ships . . .

SIR DAVID MAXWELL-FYFE: Just answer the question.

DÖNITZ: If a merchant ship acts like a merchant ship, it is treated as such. If it does not, then the submarine must proceed to attack. That is legal and in accordance with international law. The same thing happened to the crews of German merchant ships.

SIR DAVID MAXWELL-FYFE: That isn't what I asked you. I wanted to know, because it is important on some of these points: Did it ever occur to you, did you ever consider, that you were going to cause either death or terrible suffering to the crews of merchant ships who were sunk without warning?

Just tell us, did it occur to you or didn't it?

DÖNITZ: Of course; but if a merchant ship is sunk legally, that is just war, and there is suffering in other places, too, during the war.

SIR DAVID MAXWELL-FYFE: Do you view with pride of achievement the fact that 35,000 British merchant seamen lost their lives during the war? Do you view it as a proud achievement or do you view it with regret?

DÖNITZ: Men are killed during wars and no one is proud of it. That is badly expressed. It is a necessity, the harsh necessity of war.

SIR DAVID MAXWELL-FYFE: Well, now, just look at Page 29 in the English document book, or Page 58 in the German, whichever you care to look at. It is Document Number C-191, Exhibit GB-193. This is 22 September, 19 days after the beginning of the war.

"Flag Officer, U-boats, intends to give permission to U-boats to sink without warning any vessel sailing without lights.

"Previous instructions, permitting attacks on French war and merchant ships only as a defensive measure, purely French or Anglo-French convoys only north of the latitude of Brest and forbidding attacks on all passenger ships, give rise to great difficulties to U-boats, especially at night. In practice, there is no opportunity for attacking at night, as the U-boat cannot identify the target, which is a shadow, in a way that entirely obviates mistakes being made. If the political situation is such that even possible mistakes must be ruled out, U-boats must be forbidden to make any night attacks in waters where French and English naval forces or merchant ships may be moving. On the other hand, in sea areas where only English units are to be expected, the measure desired by the Flag Officer, U-boats, can be carried out. Permission to take this step is not to be given in writing, but need merely be based

on the unspoken approval of the Naval Operations Staff. U-boat commanders would be informed by word of mouth"—and note the last line—"and the sinking of a merchant ship must be justified in the War Diary as due to possible confusion with a warship or an auxiliary cruiser."

Now, just tell me—take your choice—do you consider that sailing without lights is either persistent refusal to stop on being duly summoned or active resistance to visit and search, within the Treaty? Which of either of these things do you consider it to be?

DÖNITZ: If a merchant ship acts like a warship . . .

SIR DAVID MAXWELL-FYFE: First of all, you must answer my question, if the Tribunal does not rule otherwise; and then you can give your explanation. My question is this: Do you consider that sailing without lights is either persistent refusal to stop or active resistance to visit and search? Do you consider it to be either one or the other, or both of these things? Do you?

DÖNITZ: The question is not correctly expressed, because we are dealing with a certain operational area in which British and French . . .

THE PRESIDENT: Defendant, you will answer the question, please.

DÖNITZ: I beg your pardon?

SIR DAVID MAXWELL-FYFE: Do you consider that sailing without lights is either persistent refusal to stop on being duly summoned, which is one of the matters, in the Treaty, or active resistance to visit and search, which is the other matter set out in the Treaty? Now, do you consider that sailing without lights is either or both of these matters mentioned in the Treaty?

DÖNITZ: If a merchant ship sails without lights, it must run the risk of being taken for a warship, because at night it is not possible to distinguish between a merchant ship and a warship. At the time the order was issued, it concerned an operational area in which blacked-out troop transports were traveling from England to France.

SIR DAVID MAXWELL-FYFE: Your answer is that it is not covered by the Treaty, but by one of the matters in the Treaty; but your explanation was that you thought you were entitled to torpedo without warning any ship that might be mistaken for a warship. That is your answer, is it?

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: Why didn't the Defendant Von Ribbentrop and all these naval advisers stipulate for that when Germany adhered to this Treaty, if you were going to interpret it

in that way? Were you ever asked about it before Germany adhered to this Treaty in 1936?

DÖNITZ: I was not asked before Germany signed this Treaty; Germany adhered to the Treaty in practice, as I know very well, until countermeasures were introduced; and then I received orders to act accordingly.

SIR DAVID MAXWELL-FYFE: Just let us go through this document and see if you can help me perhaps a little more on some other points. Why was this action to be based on the unspoken approval of the naval war staff? Why hadn't the naval war staff the courage to speak its approval in an ordinary order if it was all right?

DÖNITZ: Yes; the paper you are showing me is a note or memorandum made by a young official on the Naval Operations Staff. In fact—it was the idea of that particular officer on the Naval Operations Staff; and as I have pointed out here, I did not know of the matter—in actual fact, the Naval Operations Staff never gave me such an order. The contents of that paper are fiction.

SIR DAVID MAXWELL-FYFE: No, of course, they weren't to issue an order at all. You see, this states with great frankness that you were to act on the unspoken approval of the naval war staff, so that the naval war staff could say, as you have said now, "We didn't issue an order;" and the junior officers would be acting on an unspoken word, and I want to know—you have been Commander-in-Chief of the German Navy—why is it done in this way, why is it done by unspoken words, on oral orders?

DÖNITZ: No, precisely that is not correct. That was this young officer's idea. The order which I received from the Naval Operations Staff stated explicitly that blacked-out vessels could be sunk in this area where English transports were traveling from England to France. So, you see, it contained none of the things stated in this memorandum. There is no doubt that the section chief and likewise the Chief of the Naval Operations Staff refused and rejected that entirely impossible idea and gave me that short and explicit order.

SIR DAVID MAXWELL-FYFE: Are you suggesting to the Tribunal that on these vitally important points—"unspoken approval of the war staff, U-boat commanders informed by word of mouth"—that a young staff officer is allowed to put in an incorrect memorandum and get away with it uncorrected? Is that the way, is that the state of efficiency of the staff of the German Navy?

DÖNITZ: No, that is a misunderstanding. It actually has been corrected. That is a note submitted by the official on the Naval Operations Staff, of which his superiors on the Naval Operations Staff did not approve. It was corrected. There was no unspoken agreement but an explicit and clear order to myself; so that young

officer's idea had already been turned down by the Naval Operations Staff itself.

SIR DAVID MAXWELL-FYFE: You know that the original is initialed by Admiral Von Friedeburg?

DÖNITZ: No, that is quite wrong, that is impossible. "Fd" is written there—that means Fresdorf. That was Kapitänleutnant Fresdorf. He was an official on the Naval Operations Staff—not Friedeburg. He was a young officer in the first department of the Naval Operations Staff. These are all things which I learned of here. His chief, Admiral Wagner, had condemned it already. It was not Friedeburg, but Fresdorf. That is the way this young officer thought about it, but actually a definite order was issued without these things.

SIR DAVID MAXWELL-FYFE: Take the next bit. "The sinking of a merchant ship must be justified in the War Diary as due to possible confusion with a warship or auxiliary cruiser." Do you agree with faking the records after you have sunk a ship?

DÖNITZ: No, and it was not done. That also belongs to the same category—the ideas of that officer. No order for that has ever been given. The order of the Naval Operations Staff issued to me in that connection has been submitted and that is a clear and concise order, without the things mentioned here.

SIR DAVID MAXWELL-FYFE: Of course, you appreciate that these things, according to this memorandum, are to be stated without orders. There has to be no order because an order might come out—because if it is done without an order it won't come out. Are you suggesting—you are putting it on the shoulders of this lieutenant commander, that he invented these three damning facts: Unspoken approval, oral instructions to commanders, and faking the orders? You say that these existed only in the mind of a Kapitänleutnant? Is that what you are telling the Tribunal?

DÖNITZ: Yes, yes, of course, because the clear, concise order was given by the Naval Operations Staff to me in which these things were not mentioned. And quite as clearly I passed my orders on. That is how it is. This memorandum, or these ideas of that officer, was already disapproved by his chief of department in Berlin. A clear order was given to me, however, and there was nothing in it about a War Diary and all these things mentioned here. That order is available.

SIR DAVID MAXWELL-FYFE: Well, we shall be able to ask, I understand, Admiral Wagner as to where this Kapitänleutnant got hold of these ideas, is that so, or whether he made them out? Is that what you are telling us, that Wagner will be able to deal with this, will he?

DÖNITZ: Admiral Wagner ought to know all about it, because this official was in his department in Berlin.

SIR DAVID MAXWELL-FYFE: I see. Well, if you put that onto the Kapitänleutnant, let's pass on to another point. In mid-November . . .

DÖNITZ: I am not laying any blame on anybody, but they are ideas of a young officer which were already disapproved of by his chief of department. I am blaming no one. I do not accuse anybody.

SIR DAVID MAXWELL-FYFE: I see. I thought you were.

Well, now, let's pass to another point. In mid-November of 1939, Germany gave warning that she would sink, without warning, merchant ships, if armed. Don't you know that before that warning—if you want to see the point you will find it on Page 21 of the English document book or 51 to 52 of the German document book. It is just before the break, about five lines.

"By the middle of November, a score of"—that is 20—"British merchantmen had already been illegally attacked by gunfire or torpedoed from submarines."

THE PRESIDENT: Which page did you say?

SIR DAVID MAXWELL-FYFE: My Lord, Page 21, about ten lines before the break.

[Turning to the defendant.] You see, what I am suggesting, Defendant, is that the statement, the warning, that you would sink merchant ships, if armed, made no difference to the practice you had already adopted of sinking unarmed ships without warning.

DÖNITZ: In the beginning of October, if I remember correctly, I received the order or the permission, the legal permission, to sink armed merchantmen. From that moment on I acted accordingly.

SIR DAVID MAXWELL-FYFE: Just tell me: Was it your view that the mere possession of arms, a gun, on the merchant ship, constituted active resistance to visit or search within the Treaty; or was this a new addition for the guidance of German U-boat warfare which you were introducing completely independent of the Treaty?

DÖNITZ: It is a matter of course that if a ship has a gun on board she will use it. It would have been a one-sided obligation if the submarine, in a suicidal way, were then to wait until the other ship fired the first shot. That is a reciprocal agreement, and one cannot in any circumstances expect the submarine to wait until it gets hit first. And, as I said before, in practice the steamers used their guns as soon as they came within range.

SIR DAVID MAXWELL-FYFE: But you know, the arming of merchant ships, Defendant, was well known in the last war. It was, well known for 20 years before this Treaty was signed. And you will agree with me, won't you, that there is not a word in the Treaty forbidding the arming of merchant ships? Why didn't you give these ships the opportunity of abstaining from resistance or of stopping? Why did you go in the face of the Treaty which you had signed only 3 years before? That is all I want to know. If you can't tell me, if you say it is a matter for argument, I will ask Admiral Raeder. At the moment, will you tell us, or can you tell us, why didn't you keep to the Treaty?

DÖNITZ: That was not an infringement of the Treaty. I am not an expert on international law. I am soldier; and I acted according to my military orders. Of course, it is suicide for a submarine to wait till it receives the first hit. It goes without saying that the steamer is not carrying guns for fun, but to make use of them. And I have already explained what use was made of them.

SIR DAVID MAXWELL-FYFE: Well, now, just one other matter, because I must cover these points in view of your evidence.

Did you order your commanders to treat the use of wireless as active resistance? Did you consider that the use of wireless for merchant ships was active resistance within the Treaty?

DÖNITZ: On 24 September, the Naval Operations Staff's order . . .

SIR DAVID MAXWELL-FYFE: No, no, just answer the question first, Defendant, and then give your explanation. I said that to you quite 20 times yesterday and today. Did you consider the use of wireless by merchant ships as active resistance?

DÖNITZ: It is generally laid down by international law that a merchant ship can be fired on if it makes use of its wireless when stopped. That is also in the French Ordinance, for instance. In order to avoid more severe measures we had not, as a rule, done so yet. Not until the end of September, when I received a definite order or permission to do so, was that rule, which is in accordance with international law, put into effect.

SIR DAVID MAXWELL-FYFE: Tell me, didn't the German Admiralty know in 1936 that most merchantmen had wireless?

DÖNITZ: Of course, but according to the International Conference on International Law—I happen to know this because it appeared as a footnote in the Prize Ordinance—according to this conference of 1923, they were not allowed to use wireless when being stopped. That is international law and is found in all instructions. I know for certain that the French instructions say this too.

SIR DAVID MAXWELL-FYFE: At any rate again, the German Admiralty and the German Foreign Office did not make any mention of use of wireless in this Treaty.

What I am suggesting—I want to put it quite clearly to you—is that you were not bothering about this Treaty at all in any case where it didn't suit you in the operations in this war.

DÖNITZ: That is not true.

SIR DAVID MAXWELL-FYFE: Now, let's pass on to neutrals. I haven't heard you suggest that you were dealing with neutrals because they were armed, but let's take a concrete example.

"On 12 November 1939 . . ."

DÖNITZ: I have never said that neutrals were armed.

SIR DAVID MAXWELL-FYFE: That is what I thought. Well, we will rule that out. We will take the example.

My Lord, it is given on Page 20 of the document book, and in the middle of the middle paragraph (Exhibit Number GB-191).

[Turning to the defendant.]

"On 12 November, the Norwegian *Arne Kjode* was torpedoed in the North Sea without warning at all. This was a tanker bound from one neutral port to another."

Now, Defendant, were you classing tankers bound from one neutral port to another as warships; or for what reason was that ship torpedoed without warning? The master and four of the crew lost their lives. The others were picked up after many hours in an open boat. Why were you torpedoing neutral ships without warning? This is only the 12th of November in the North Sea, a tanker going from one neutral port to another.

DÖNITZ: Well, the submarine commander in this case could not see, first of all, that the ship was traveling from one neutral port to the other, but this ship . . .

SIR DAVID MAXWELL-FYFE: Therefore . . .

DÖNITZ: No, not for that reason; no. But that ship was heading for England, and he confused it with an English ship. That is why he torpedoed it. I know of that case.

SIR DAVID MAXWELL-FYFE: You approve of that action by the submarine commander?

DÖNITZ: No; that is an assertion made by yourself and it is in practice refuted by our clean submarine warfare and by the fact that it was done by mistake.

SIR DAVID MAXWELL-FYFE: When in doubt, torpedo . . .

DÖNITZ: That is one of the cases . . .

SIR DAVID MAXWELL-FYFE: Don't you approve of that: when in doubt, torpedo without warning? Is that your view?

DÖNITZ: No, no; that is merely what you assert. If one or two instances of mistakes are found in the course of 5½ years of clean submarine warfare, it proves nothing; but it does contradict your assertion.

SIR DAVID MAXWELL-FYFE: Yes. Well, now, let's look at your clean U-boat warfare, if you want. Will you turn to Page 30 of the English book or Page 59 to 60 of the German book.

Now, the first of these—this is the note on the intensification of U-boat warfare. You say that on the directive of the Armed Forces High Command of 30 December—this is on the 1st of January 1940:

> "... the Führer, on report by the C-in-C Navy"—that is the Defendant Raeder—"has decided: (a) Greek merchant vessels are to be treated as enemy vessels in the zone around Britain declared barred by the U.S.A."

There is a mistake, My Lord, in the translation. You see it says "blockaded by the U.S.A. and Britain." The proper translation should be "in the zone around Britain declared barred by the U.S.A."

Now, Defendant, I don't want to make any bad point, at any rate intentionally. Were you including Greek ships because you believed that most of the Greek merchant navy was on British charter, was being chartered by Britain? Was that the reason?

DÖNITZ: Yes. That was probably why the Naval Operations Staff gave the order, because of the Greek fleet sailing in England's service. I assumed that those were the reasons of the Naval Operations Staff.

SIR DAVID MAXWELL-FYFE: Assumed that was the reason. I do not want to occupy time on the point. What I want to know is this: Did that mean that any Greek ship in these waters would be sunk without warning?

DÖNITZ: Yes. It says here that they were to be treated like enemy ships.

SIR DAVID MAXWELL-FYFE: In sum, then, that means that a Greek merchantman from then on would be sunk without warning if it came into the zone around the British coast.

Now, you mentioned the Bristol Channel, and you have given your explanation of the next sentence. You say all ships may be attacked without warning. For external consumption, these attacks should be given out as hits by mines.

I just want to get it clear from you. You are not suggesting that the reason of the Naval High Command was to conceal the maze of

operations of the U-boats; the reason was to avoid trouble with neutrals whose good will you wanted to keep, was it not?

DÖNITZ: I already stated my position on that yesterday. These are matters connected with the political leadership and I know nothing about them. I myself, as Commander of U-boats, looked at them only from the angle of military advantage or expediency, just as England did in similar cases. What the political reasons may have been, I cannot say.

SIR DAVID MAXWELL-FYFE: That is my whole suggestion to you, you know, Defendant, that you were acting on the military necessity stated in that memorandum of the Naval Command that the maximum damage to England could only be achieved with unrestricted use of arms without warning. But let us just look at the next one now.

DÖNITZ: There were certain areas which neutrals had been warned not to cross. I stated yesterday that the same procedure was followed in English operational areas. If a neutral in spite of these warnings entered those areas, where military actions were constantly being carried on by one side or the other, it had to run the risk of suffering damage. Those are the reasons which induced the Naval Operations Staff to issue these orders.

SIR DAVID MAXWELL-FYFE: As you mentioned that, I shall deal first with your areas. Your zone, which is published, was from the Faroes to Bordeaux and 500 miles west of Ireland. That is, your zone was 750,000 square miles; isn't that right? Your zone around Britain was from the Faroes to Bordeaux, and 500 miles west of Ireland?

DÖNITZ: Yes, that is the operational area of August 1940.

SIR DAVID MAXWELL-FYFE: Yes, of August 1940.

DÖNITZ: And it is in accord in extent with the so-called combat zone which America forbade her merchant ships to enter.

SIR DAVID MAXWELL-FYFE: You say it is in accord. Let us just look at it and see what the two things were. The United States at that time said that its merchant ships were not to come into that zone. You said that if any merchant ship came into that zone, 750,000 square miles in extent, none of the laws and usages of war applied, and that ship could be destroyed by any means you chose.

That was your view, was it not?

DÖNITZ: Yes, that is the German point of view in international law, which was also applied by other nations, that operational areas around the enemy are admissible. I may repeat that I am not a specialist in international law but a soldier, and I judge according to common sense. It seems to me a matter of course that an ocean

area, or an ocean zone, around England could not be left in the undisturbed possession of the enemy.

SIR DAVID MAXWELL-FYFE: I do not think you are disputing it at all; but I want to get it quite clear. It was your view that it was right that if you fixed an operational zone of that extent, any neutral ship—and you agree that it is a neutral ship—coming unarmed into that zone could be destroyed by any means that you cared to use? That was your view of the way to conduct a war at sea; that is right, is it not?

DÖNITZ: Yes; and there are plenty of British statements which declare that in wartime—and we were at war with England—one cannot permit neutrals to enter and give aid to the belligerents, especially if they had previously been warned against doing so. That is quite in accordance with international law.

SIR DAVID MAXWELL-FYFE: We will discuss the matter of law with the Tribunal. I want to get at the facts.

That is the position which you adopt? And equally, if you found a neutral vessel outside the zone using its wireless, you would treat it as if it were a ship of war of a belligerent power, would you not? If a neutral vessel used its wireless after seeing the submarine, you would treat it as a ship of war of a belligerent power, would you not?

DÖNITZ: Yes, according to the regulations of international law.

SIR DAVID MAXWELL-FYFE: I see. As I say, the matters of law rest with the Tribunal. I am not going to argue these with you. But, apart altogether from international law, did it ever strike you that that method of treating neutral ships was completely disregarding the life and safety of the people on the ships? Did that ever strike you?

DÖNITZ: I have already said that the neutrals had been warned not to cross the combat zones. If they entered the combat zones, they had to run the risk of suffering damage, or else stay away. That is what war is. For instance, no consideration would be shown on land either to a neutral truck convoy bringing ammunition or supplies to the enemy. It would be fired on in exactly the same way as an enemy transport. It is, therefore, quite admissible to turn the seas around the enemy's country into a combat area. That is the position as I know it in international law, although I am only a soldier.

SIR DAVID MAXWELL-FYFE: I see.

DÖNITZ: Strict neutrality would require the avoidance of combat areas. Whoever enters a combat area must take the consequences.

SIR DAVID MAXWELL-FYFE: I see. That is your view? I do not think it could possibly be put more fairly.

DÖNITZ: And for that reason the United States explicitly prohibited entry into these zones in November, because it refused to enter the combat zone.

SIR DAVID MAXWELL-FYFE: In your view, any neutral ship which entered a zone of 750,000 square miles around Britain was committing an unneutral act and was liable to be sunk without warning at sight. That is your view of how war at sea should be conducted; that is right, is it not?

DÖNITZ: Yes. Special lanes were left open for the neutrals. They did not have to enter the combat area unless they were going to England. Then they had to run the risk of war.

SIR DAVID MAXWELL-FYFE: I just want you to tell me, if you will look back to Document C-21; that is, on Page 30 of the English book and Pages 59 to 60 of the German, you see that in all these cases—you take the one in Paragraph 2, Page 5:

> "Conference with the Chief of Naval Operations Staff"—on 2 January; that was the "intensified measures" in connection with the "Case Yellow," that is, the invasion of Holland and Belgium—"the sinking by U-boats . . . without any warning, of all ships in those waters near the enemy coasts in which mines can be employed."

Why, if, as you have just told the Tribunal several times, you were acting in accordance with what you believe to be international law, why did you so act only in areas where mines could be employed?

DÖNITZ: I have already explained that that was a question not of legality but of military expediency. For military reasons I cannot give the enemy explicit information as to the means of combat I am using in an area which may be mined. You operated in the same way. I remind you of the French danger zone which was declared, corresponding to the mined areas around Italy. You did not state which weapons you were using, either. That has nothing to do with legality. That is purely a question of military expediency.

SIR DAVID MAXWELL-FYFE: You see, I think you will appreciate that the point that I am putting to you is this: That you were pretending to neutrals that you were acting in accordance with the London Treaty, whereas you were actually acting not in accordance with the Treaty, but in accordance with instructions you laid down for yourself, based on military necessity.

What I am suggesting to you is that what the Naval High Command was doing was pretending to, and getting the advantage fraudulently of appearing to, comply with the Treaty. And that, I suggest, is the purpose of these orders that you would only do this where mines could be laid. Isn't that what was in your mind?

DÖNITZ: It is not true that we tried to fool the neutrals. We warned the neutrals explicitly that combat actions were going on in these operational areas and that if they entered they would suffer damage. We pretended nothing; we told them explicitly: "Do not enter these zones." England did the same.

THE PRESIDENT: Sir David, doesn't the next sentence bear upon that?

SIR DAVID MAXWELL-FYFE: Yes, Your Lordship; I am very much obliged to Your Lordship.

[Turning to the defendant.] Would you look at the next sentence in II-1, where it says the following?

> "By the present order, the Navy will be authorized, in keeping with the general intensification of the war, to sink by U-boats, without any warning, all ships in those waters near the enemy coasts in which mines can be employed. In this case, for external consumption, pretense should be made that mines are being used. The behavior of, and use of weapons by, U-boats should take this into consideration."

Do you say, in the face of that sentence, that you were not trying to fool the neutrals—to use your own phrase? Do you still say you were not trying to fool the neutrals?

DÖNITZ: No, we did not fool them because we warned them beforehand. In wartime I do not have to say what weapon I intend to use; I may very well camouflage my weapon. But the neutrals were not fooled. On the contrary, they were told, "Do not enter these zones." After that, the question of which particular military method I use in these areas no longer concerns the neutrals.

SIR DAVID MAXWELL-FYFE: Now I want you to tell the Tribunal, what was your view of your responsibility to the seamen from boats that were sunk? Would you have in mind the provisions of the London Treaty, and will you agree that your responsibility was to save seamen from boats that were sunk wherever you could do so without imperiling your ship? Is that, broadly, correct?

DÖNITZ: Of course, if the ship herself behaved according to the London Agreement, or unless it occurred within the operational areas mentioned.

SIR DAVID MAXWELL-FYFE: Oh? Do you really mean that? That is, if you sank a neutral ship which had come into that zone, you considered that you were absolved from any of your duties under the London Agreement to look after the safety of the crews?

DÖNITZ: In operational areas I am obliged to take care of the survivors after the engagement, if the military situation permits. The same held good in the Baltic and in many operational areas.

SIR DAVID MAXWELL-FYFE: That is what I put to you, Defendant. Please believe me, I don't want to make any false point. I put to you: If they could do so without imperiling their ships, that is, without risking losing their ships. Let us get it quite clear: Do you say that in the zone which you fixed there was no duty to provide for the safety of the crew, that you accepted no duty to provide for the safety of the crew?

DÖNITZ: I have stated that I was obliged to take care of the survivors after the engagement, if the military situation permitted. That forms part of the Geneva Convention or the agreement on its application.

SIR DAVID MAXWELL-FYFE: Then it didn't matter whether the sinking was in the zone or out of the zone. According to what you say, you undertook exactly the same duty towards survivors whether it was in the zone or outside the zone. Is that right?

DÖNITZ: No, that is not correct, because outside the zone neutrals were treated according to the Prize Ordinance, only inside the zone they were not.

SIR DAVID MAXWELL-FYFE: What I can't understand is this—and really, I hope I am not being very stupid—what was the difference? What difference did you consider existed in your responsibility towards survivors if the sinking was inside the zone or outside the zone? That is what I want to get clear.

DÖNITZ: The difference was that neutrals outside the zone were treated according to the Prize Ordinance. According to the London Agreement, we were obliged, before sinking the ship, to see that the crew were safe and within reach of land. There was no obligation to do so inside the zone. In that case we acted according to the Hague Agreement for the application of the Geneva Convention, which provides that the survivors should be taken care of after the fight if the military situation permits.

SIR DAVID MAXWELL-FYFE: Will you agree that an order in express terms to annihilate, to kill, the survivors of a ship that is sunk would be an appalling order to give?

DÖNITZ: I have already stated that the attacks on survivors were contrary to a soldier's idea of fair fighting and that I have never put my name to any order which could in the slightest degree lead to anything of the kind—not even when it was proposed to me as a reprisal measure.

SIR DAVID MAXWELL-FYFE: Will you agree that even with the discipline in your own branch of the service, there was a possibility that some U-boat commanders would have refused to comply with an order to annihilate survivors?

DÖNITZ: No such order was ever given.

SIR DAVID MAXWELL-FYFE: I think it is quite a fair question. What if it were given in express terms, "Annihilate survivors after you sink a ship"? You know your officers. Would there, at any rate, have been some danger that some of them would have refused to carry out that order?

DÖNITZ: Yes. As I know my U-boat forces, there would have been a storm of indignation against such an order. The clean and honest idealism of these would never have allowed them to do it; and I would never have given such an order or permitted it to be given.

SIR DAVID MAXWELL-FYFE: Yes, that is what I put to you.

Now, just look at Page 33 of the English document book. That contains your own Standing Order Number 154 (Exhibit Number GB-196). Let me read it to you, rather slowly, if the Tribunal does not mind. It says:

> "Do not pick up survivors and take them with you; do not worry about the merchant ship's boats; weather conditions and distance from land play no part. Have a care only for your own ship and strive only to attain your next success as soon as possible. We must be harsh in this war."

First of all, tell me, what do you mean by "your next success"? Doesn't that mean the next attack on a vessel?

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: Now, just look at that order of yours and compare it with the words of the London Treaty. The Treaty, you remember, says that a warship, including a submarine, may not sink or render incapable of navigation a merchant vessel without first having placed passengers, crew, and ship's papers in a place of safety. For this purpose, the ship's boats are not regarded as a place of safety unless the safety of the passengers and crew is assured in the existing sea and weather conditions, by the proximity of land or the presence of another vessel.

Defendant, you had that article of the London Treaty in front of you, had you not, when you were drafting this order? And you were deliberately excluding from your order the matters mentioned in the London Treaty? Listen to your order: "Do not worry about the boats; weather conditions"—one thing mentioned in the Treaty—"and distance from land"—another thing mentioned in the Treaty—"play no part."

Your order could have been put in other language almost as clearly: "Disregard all the matters that are stated in Paragraph 2 of the London Treaty."

Now tell me, didn't you have the London Treaty in front of you when you drew that order?

DÖNITZ: Of course I had the London Treaty in my mind and in front of me. I stated in detail yesterday, however, that we were thinking in terms of an engagement, a ship under escort, as is shown by the order as a whole. You have taken just one paragraph. There was, therefore, no question of applying the London Agreement, which does not refer to ships under escort.

Secondly, we were thinking of an area in the immediate vicinity of the permanent positions, enemy defenses off the harbors on the British coast. The London Agreement has nothing to do with fighting ships under escort. Those are two entirely different things; and that order applied to this area and the combating of ships under escort. I explained that in detail yesterday.

SIR DAVID MAXWELL-FYFE: But if you say that that only applied when it was a question of attacking ships in convoy, would you look at Page 26 of the English document book and at Page 57 of the German document book? There you will find the account of the sinking of the *Sheaf Mead* on 27 May 1940. And if you will look at the U-boat's log, opposite the time group 1648 hours—which is on Page 27 of the English and Page 57 of the German (Exhibit Number GB-192)—this is what the log says:

> "A large heap of wreckage floats up. We approach it to identify the name. The crew have saved themselves on wreckage and capsized boats. We fish out a buoy; no name on it. I ask a man on the raft. He says, hardly turning his head 'Nixname.' A young boy in the water calls, 'Help, help, please.' The others are very composed; they look damp and somewhat tired and have a look of cold hatred on their faces. Then on to the old course."

If you turn to Page 57 of the German document book, or Page 28 of the English, you will find the last sentence from the survivors' report describes the submarine as doing this:

> "They cruised around for half an hour, taking photographs of us in the water. Otherwise they just watched us but said nothing. Then she submerged and went off without offering us any assistance whatever."

There you see the point, Defendant, that your own commander says that there was a young boy in the water calling, "Help, help, please," and your submarine takes a few photographs, submerges, and then goes off.

THE PRESIDENT: Sir David, ought you not to refer to the passage just after the name of the vessel, under 1648, "It is not clear. . . ."?

SIR DAVID MAXWELL-FYFE: "It is not clear whether she was sailing as a normal merchant ship. The following seemed to point to the contrary."

And then, My Lord, it gives a number of matters.

Of course, My Lord, I am on the point of survivors at the moment. I am not taking this instance as a matter of wrongful sinking; I am taking it as an instance of carrying out this order.

I am very much obliged to Your Lordship, but that is why I didn't do it.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

SIR DAVID MAXWELL-FYFE: Defendant has now had the opportunity of looking at the log of U-37. Was it not your practice in May 1940 to see personally the logs of all U-boats when they arrived?

DÖNITZ: I had the commanders of submarines report verbally to me every time. The logs, which arrived or were finished several weeks later or some time after the entries were made since they had to be written in the port, were only submitted to me by my Chief of Staff if they contained something special in addition to the verbal report.

SIR DAVID MAXWELL-FYFE: Did you remember seeing the log of U-37 that was involved in this incident?

DÖNITZ: No.

SIR DAVID MAXWELL-FYFE: Do you now observe that the *Sheaf Mead* was not sailing in convoy?

DÖNITZ: Yes. I know that. And I know that she was an armed ship and that, according to the orders which the commander had, he was justified in sinking her as an armed ship. It also appears from his log that he could not decide on firing the torpedo until he had ascertained that the ship was armed. That is very clearly expressed here.

SIR DAVID MAXWELL-FYFE: May I please explain to His Lordship that I am not on the question of sinking. I am on the question of survivors. Did you take any action with the U-boat commander, Kapitänleutnant Ernst, for not having assisted in the rescue of survivors?

DÖNITZ: No. But I did tell him that if he was on the spot where this rescue went on he should also have helped.

SIR DAVID MAXWELL-FYFE: Was he not simply carrying out your Order 154 of November or December 1939?

DÖNITZ: No, he was not.

SIR DAVID MAXWELL-FYFE: Well, now . . .

DÖNITZ: I have already stated to which waters it applied and that it only applied to ships which were protected.

SIR DAVID MAXWELL-FYFE: Well, now, would you look at Page 34 in the English document book, Page 69 in the German document book. That is the report of the conversation between Hitler and Oshima, and you say that you were told nothing about it. Now I want you just to follow about halfway down, halfway through the extract, where it says:

"After having given further explanations on the map, the Führer pointed out that however many ships the United States built, one of its main problems would be the lack of personnel. For that reason merchant ships would be sunk without warning, with the intention of killing as many of the crew as possible. Once it gets around that most of the seamen are lost in the sinkings, the Americans would soon have difficulties in enlisting new people. The training of seagoing personnel takes a long time."

Now, did you agree with that argument of Hitler's that once it gets around that most of the seamen are lost in the sinkings, the Americans would soon have difficulties in enlisting new people? Did you think that that was a sound argument on the question of sea warfare against the United States?

DÖNITZ: I have already given my answer to that question in writing to the Foreign Office, and I clearly stated my opinion, which was that I did not believe that it would take a long time to train seamen, and that America had no lack of them. Consequently I would also not be of the opinion that this would serve as a deterrent if they had enough men.

SIR DAVID MAXWELL-FYFE: So you do not agree with the Führer's reasoning on that point?

DÖNITZ: No, I do not agree with the last part, namely, that there would be a shortage of seamen.

SIR DAVID MAXWELL-FYFE: No, it is the first point that I want your opinion on expressly: "Once it gets around that most of the seamen are lost in the sinkings, the Americans would soon have difficulties in enlisting new people." That is, I suggest to you, that the new people would be scared off by the news of the sinking and killing of the first people. Did you agree that that was a sound argument? That is what I want your view on.

DÖNITZ: That is his personal point of view. Whether they would be scared off or not is an American matter which I cannot judge.

SIR DAVID MAXWELL-FYFE: Would you look at your own document book, Volume 1, Page 29 in the English version, which is your report to the Führer on 14 May 1942. Do you see the last sentence where you are advocating a range pistol? You say:

"A range pistol will also have the great advantage that the crew will not be able to rescue themselves on account of the quick sinking of the torpedoed ship. This greater loss of crews will no doubt cause difficulties for the assignment of crews for the great American construction program."

DÖNITZ: It is perfectly clear, it is correct. If I have not got the old crews any more, I have to have new ones. It makes it more difficult. It says nothing about scaring off there, but the positive fact is stated that new crews have to be trained.

SIR DAVID MAXWELL-FYFE: So are we to take it that you did not think that would have any frightening or terrorizing effect on the getting of new crews, if the old crews were sunk under conditions where they would probably lose their lives.

DÖNITZ: That is a matter of opinion, it depends on the courage, the bravery of the people. The American Secretary Knox said that if in peacetime—in 1941—the sinkings of German U-boats were not published he expected it would have a deterrent effect on my U-boats. That was his opinion. I can only say that the silent disappearance through American sinkings in peacetime did not scare off my U-boats. It is a matter of taste.

SIR DAVID MAXWELL-FYFE: Well, on 14 May the Führer was pressing you to take action against the crews after the vessel was sunk. Is that not so?

DÖNITZ: Yes. He asked whether we could not take action against the crew and I have already said, after I heard of the Oshima discussion here, that I believe this question to Grossadmiral Raeder and myself was the result of that Oshima discussion.

My answer to that, of course, is known; it was "no."

SIR DAVID MAXWELL-FYFE: Your answer was "no," it would be far better to have a range pistol and kill them while they were still on the boat. That was your answer, was it not?

DÖNITZ: No. My answer was: Taking action against shipwrecked personnel is out of the question, but it is taken for granted that in a fight one must use the best possible weapon. Every nation does that.

SIR DAVID MAXWELL-FYFE: Yes, but the object of your weapon, as quite clearly set out, was that the crew would not be able to rescue themselves on account of the quick sinking of the ship. That is why you wanted to use the range pistol.

DÖNITZ: Yes. And also of course, because we considered the crews of the steamers as combatants since they were fighting with weapons.

SIR DAVID MAXWELL-FYFE: Well, I am not going back to deal with that point again, but that was in your mind. Now, the Führer raised this point again on 5 September 1942, as is shown in your document book, Volume II, Page 81.

DÖNITZ: I do not have it. Where is it?

SIR DAVID MAXWELL-FYFE: It begins with the discussion in the OKW on 5 September 1942. It is Exhibit Dönitz-39, Page 81, and it is in the English document book, Volume II.

DÖNITZ: Yes, I have it now.

SIR DAVID MAXWELL-FYFE: It arises out of an incident of the sinking of the mine boat, *Ulm,* and there is a question of whether British destroyers had fired with machine arms on soldiers in lifeboats; and the Führer gave orders to the Naval Command to issue an order, according to which "our warships would use reprisals"; and if you look a little lower down, you will see that the matter had been investigated by your operations staff, and it is stated:

> "It could not be proved beyond a doubt that the fire had been aimed at the crew boarding the lifeboats. The enemy fire was evidently aimed at the ship itself."

Then you discuss the question of applying reprisals, at the foot of that page, and you say:

> "It is the opinion of the Naval Operations Staff that before issuing reprisal orders, one should take into consideration whether such measures, if applied by the enemy against us, would not in the end be more harmful to us than to the enemy. Even now our boats are able only in a few cases to rescue shipwrecked enemy crews by towing the lifeboats, *et cetera,* whereas the crews of sunken German U-boats and merchant vessels have so far, as a rule, been picked up by the enemy. The situation could therefore only change in our favor if we were to receive orders, as a measure of reprisal, that shipwrecked enemy crews should not only not be saved, but that they should be subdued by fire. It is significant in this respect that so far it could not be proved that in the cases on record where the enemy used arms against shipwrecked Germans such action was the result of, or was covered by, an order of an official British agency. We should therefore bear in mind the fact that knowledge of such a German order would be used by enemy propaganda in such a manner that its consequences could not easily be foreseen."

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I object against this manner of procedure. The document about which this cross-examination is being made is a document from me, and I have not submitted it yet. I do not know whether it is customary in this Trial that exhibits of the Defense are submitted by the Prosecution. For this reason I had suggested at the time to begin with the documentary evidence so that the Prosecution should also have an opportunity to use my exhibits in cross-examination.

THE PRESIDENT: Have you any objection to the document which is in your document book being offered in evidence?

FLOTTENRICHTER KRANZBÜHLER: I only want to avoid having my documents presented by the Prosecution in cross-examination because this upsets my entire documentary evidence. This particular case does not play a decisive role for me, but if the Prosecution proposes to present other documents of mine which have not yet been submitted, I should like to ask that the cross-examination be interrupted and I first be afforded an opportunity to submit my documents.

THE PRESIDENT: That will only waste time, will it not? It would not do any good; it would only waste time.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I do not think it would be a waste of time if I, as Defense Counsel, ask that I be allowed to submit my own documents to the Tribunal myself and that they shall not be quoted to the Tribunal by the Prosecution from my document book, because the manner of presentation and the questions asked by the Prosecution do, of course, give these documents a quite definite meaning.

THE PRESIDENT: Dr. Kranzbühler, the Tribunal thinks there is no objection to the course that is being taken. You have had the opportunity already of putting this document to the witness. You will have a further opportunity of putting it to him again in re-examination.

SIR DAVID MAXWELL-FYFE: So that there was fresh pressure put on you to take this course, that is, to fire on the crews of sunken vessels and that in September, was there not?

DÖNITZ: No, that is not correct. I only learned of this document of the naval war here; I was not under pressure, therefore; but it is true that, in accordance with this document, the Naval Operations Staff had apparently had orders from the OKW to compile a list of all such cases and that the Naval Operations Staff very correctly took the point of view that one would have to be very careful in judging these cases and that it advised against reprisal measures. It appears to me that the compilation of this document served to convince us that in principle one should keep away from these reprisal measures.

SIR DAVID MAXWELL-FYFE: Did you know that on the instructions of Hitler the OKW had put through an inquiry to the naval war command on this point in September?

DÖNITZ: No, I did not know that. I just said I do not know about this entry in the War Diary of the Naval Operations Staff and the appendix which is attached to it. I first heard of it here.

SIR DAVID MAXWELL-FYFE: You first heard of it here?

DÖNITZ: I did not know about the entry in the War Diary of the Naval Operations Staff. That was done in Berlin, and I was Commander of the Submarine Fleet in France at the time.

SIR DAVID MAXWELL-FYFE: Well, if you tell the Tribunal that you did not know about it in September, then we will pass on to another document. That is what you say, that you did not know about it in September 1942?

DÖNITZ: No.

SIR DAVID MAXWELL-FYFE: Now, I would just like you—I do not want to take you through the *Laconia* in any detail, but I want you just to tell me about one, I think, one or two entries. I think it is Page 40 of your own document book.

THE PRESIDENT: Is that not on Page 41?

SIR DAVID MAXWELL-FYFE: I am very much obliged to Your Lordship.

[Turning to the defendant.] It is Page 41, at the bottom. It is on 20 September, 1320 hours. That is your wireless message to the U-boat *Schacht.* Do you see that?

DÖNITZ: Yes, and I explained that in great detail yesterday.

SIR DAVID MAXWELL-FYFE: I just want to know: Is it true what is stated in your wireless message that the boat was dispatched to rescue Italian allies, not for the rescue and care of Englishmen and Poles? Is that true?

DÖNITZ: That is correct, because the vessel had reported to me that it had four boats in tow—and it says on Page 40, "... with British in tow." It was clear, considering the whole situation, that a submarine with vessels in tow could not remain on the surface without the greatest danger to itself. Hence on Page 40 under heading 2 the order and the instructions given, "Boats with British and Poles to be cast adrift." I wanted to get rid of the boats. That was the only reason. And it was only afterwards—Page 41—when a long radio message came from him, which in itself was a repetition but which was interpreted to mean that after the two air attacks had taken place he had again endangered his boat by stopping and picking up men, only then did he receive this wireless message, after it had gradually dawned on me—during the first four days, or perhaps three days, I had nothing against rescuing the British—that the Italians, who after all were our allies, were getting the worst of it, which indeed proved to be the case.

SIR DAVID MAXWELL-FYFE: You have given a long explanation. Now, is that wireless message true, that the boat was

dispatched to rescue Italian allies, not for the rescue and care of Englishmen and Poles? Is that true or not true?

DÖNITZ: Of course; this wireless message contained both instructions and it becomes unequivocally clear from these two instructions as well as from the impression I had that the British who were rescued far outnumbered the Italians, who were left to drown.

SIR DAVID MAXWELL-FYFE: Now, there is one point I want you to make a little clearer. When you were interrogated about this matter, you said that you were under great pressure at the time; and, I think, that the pressure came to you from Hitler only through Captain Fricke. Is that right?

DÖNITZ: No, "only" is not correct. It was "also." The pressure, as I have very clearly explained here, was due to worry and anxiety regarding the fate of my submarines, because I knew that they were now being greatly jeopardized. We had evidence of that already from the bombing attacks; secondly, of course, from the Führer's orders which Fricke gave. But I have also stated here that in spite of that order, even if it was not militarily correct to act in this way, I continued rescuing. However, the pressure, my worry and anxiety, were mostly caused by the fate of the submarines themselves.

SIR DAVID MAXWELL-FYFE: So that at this time you had had the report to the Führer on 14 May; you had then had the *Laconia* incident, and during that incident you had had the pressure from the Führer. Now, was it not because of this...

DÖNITZ: I beg your pardon, but...

SIR DAVID MAXWELL-FYFE: Allow me to ask my question.

DÖNITZ: I think there is an error that has crept in here.

SIR DAVID MAXWELL-FYFE: Very well, I will correct it. You had had the report to the Führer on 14 May. You have told me that. There was then the *Laconia*...

DÖNITZ: That has nothing to do with the Führer's order in the case of the *Laconia*. In the case of the *Laconia* the Führer had given orders, and quite rightly, that no boats should be endangered by the rescue. That is something quite different from the subject of 14 May.

SIR DAVID MAXWELL-FYFE: I am trying to assemble for the moment what matters you had to deal with. You had had the 14th of May, the *Laconia* incident, and then an order to stop, coming through from the Führer.

DÖNITZ: No, in the case of the *Laconia* incident I never thought at all of the order or of the discussion of 14 May with the Führer,

and I could not, because that was an entirely different subject. This is quite another matter, here it was purely a matter of rescue. There is no connection whatsoever between the two.

SIR DAVID MAXWELL-FYFE: We will see about that. Turn to Page 36 in the British document book, or Pages 71 to 75 in the German document book.

Now, you have told us that what mainly concerned you was the safety of your own boats and of your own personnel.

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: Why did you put into the order, "The elementary demands of warfare for the destruction of ships and crews are contrary to rescuing"? What was the point of putting these words in, unless you meant to encourage people to destroy enemy ships and crews?

DÖNITZ: I explained that in great detail yesterday. I preached during all these years: You must not rescue when your own safety is in danger. In the case of the *Laconia* I myself in my anxiety and worry wirelessed that to the troops many times. Apart from that, I found again and again that submarine commanders were taking the danger from the air too lightly. I also showed how that is to be explained psychologically. I described yesterday the overwhelming increase of the air force, and consequently in no circumstances would I have again given my people as a reason that, if there is danger from the air, or since you are being endangered from the air, *et cetera,* you must not rescue, or rescuing would be contrary to the elementary demands of warfare; because I did not want to leave it to my commanders to discuss whether there was danger from the air or not. After all my experience of the losses suffered and in view of the ever present air force, which as history has shown was becoming stronger and stronger, I had to give a clear-cut order to the commanders based on that experience: "You cannot go on like that, or while we rescue the enemy we shall be attacked and killed by the enemy." Therefore this reasoning must not enter into it. I did not wish to give the commanders another opportunity of deliberating or discussing. I told you already yesterday that I could have added, "If now, in view of the danger from the air, we are killed by that selfsame enemy while rescuing him, then rescue is contrary to the elementary demands of warfare." I did not want to do that, because I did not want any more discussion. We all had the impression that this refrain, "Do not rescue if there is danger from the air," was outworn, because this would have meant that the commanders would nevertheless lose their liberty of action, and might slip into this thing.

SIR DAVID MAXWELL-FYFE: But if you had simply said, "You are forbidden to rescue," and if you had wanted to give a reason, "You are forbidden to rescue because in view of the Allied air cover it is a matter of too great danger for the safety of yourself and your boat ever to rescue at all," that would have been quite clear. Why did you not put it that way?

DÖNITZ: No, that is just what I could not do. I have just said so, because some commander in some naval theater might get the idea that there was no danger from the air, and the next moment the plane would appear and he would be struck down. I have already said all that in reply to your suggestion.

SIR DAVID MAXWELL-FYFE: Now, you had two experienced staff officers with you at the time that you got this order out—Captains Godt and Hessler, had you not?

DÖNITZ: Yes, that is right.

SIR DAVID MAXWELL-FYFE: And both Captain Godt and Captain Hessler advised you strongly against the issue of this order, did they not?

DÖNITZ: As far as I can remember, they said something like this, "The bulk of the submarines"—I have said that here—"the bulk of the U-boats, that is, more than 90 percent of the U-boats, are already fighting the convoys, so that such an order is out of the question for them."

That was the question: Should we issue such a general order at all, and would not the further developments which forced us all the time to issue new orders, namely, "Remain on the surface as little as possible," make such an order superfluous? However, since I was responsible for warding off every possible danger to a submarine, I had to give this order and my staff agreed with me perfectly as far as this measure was concerned.

SIR DAVID MAXWELL-FYFE: Did you not say when you were interrogated on 22 October and on other occasions: "Godt and Hessler told me, 'Do not send this wireless message—you see, one day there may be a wrong impression about it; there may be a misinterpretation of that.' " Did you not say that?

DÖNITZ: Yes, I said that, and it is true too that such a remark may have been made. But it was not misinterpreted by the U-boats; nobody thought of that or we would not have issued the order. But we were thinking of the effects on the outside world.

SIR DAVID MAXWELL-FYFE: And was not the effect that you wanted to produce: That you would have an order which could be argued was merely a prohibition of rescue, and would encourage the submarine commanders who felt that way to annihilate the survivors of the crews?

DÖNITZ: No, that is absolutely wrong, and it is also proved by the documents which we have submitted.

Apart from the Möhle case, nobody misunderstood this order and when we compiled the order we were aware of that fact. That becomes clear from the communications which we had with U-boat commanders, and it becomes clear from my searching inquiries when I asked whether they had in any way thought of that. The order does not show that at all, neither does the reason which led to it. The fact is that we were rescuing for all we were worth. The question was, "to rescue or not to rescue," and nothing else. That is the key to the *Laconia* case.

SIR DAVID MAXWELL-FYFE: You said that "we issued the order." Do you remember saying this in an interrogation on 6 October: "I am completely and personally responsible for it, because Captains Godt and Hessler both expressly stated that they considered the telegram as ambiguous or likely to be misinterpreted."

Do you remember saying that, "I am completely and personally responsible" because both your staff officers had pointed out that it was ambiguous? Did you say that?

DÖNITZ: I do not think so. I cannot think I said it that way. I am not sure, but I will say the following:

During the interrogation I was told that Captains Godt and Hessler made this order, and in reply to that I said, "It is quite immaterial, I am responsible for the order." Moreover, the main point of discussion on that order was whether one ought to issue such an order. That it should ever have entered Captain Godt's or Captain Hessler's mind that such an order could be misunderstood by us—by the U-boats—is completely erroneous. I emphatically stated that, too, during the interrogation. I clearly stated that this consideration and the discussion of the question whether the order was to be issued or not had nothing whatever to do with it as far as these two gentlemen were concerned. That is quite clear; and that also was contained in the interrogation.

SIR DAVID MAXWELL-FYFE: You were making clear that it was the first occasion. I made it clear that you were not blaming your junior officer who had advised you against this, and you were taking the responsibility on this occasion yourself. That is true, these junior officers advised you against it? In your own words, they both expressly stated that they considered the telegram ambiguous and liable to be misinterpreted; that is right, is it not, they did say that?

DÖNITZ: I did not see the discussion after it was put down, and I did not sign it. I can tell you quite clearly—and this is clear from

another discussion—that I said that I myself will assume full responsibility. For me that was the essential thing. The only reason why the whole question came up was because the interrogating officer told me these officers had drafted the order, and then, as I recall it, the idea was that on no account should these officers be held responsible for my order. That was the point of the matter.

SIR DAVID MAXWELL-FYFE: Well, at any rate, you are not changing what you said a few minutes ago that both Captain Godt and Captain Hessler advised you against issuing this order, are you?

DÖNITZ: According to my recollection, at first both advised against it. I have now heard that both are saying they did not advise against it, but that perhaps I or somebody else might have advised against it. I do not know for certain. I recollect that at first both advised me against issuing such an order at a time when 90 percent of our submarines were already engaged in fighting convoys and when we were being forced under the water anyway and it was absolutely impossible to make any more rescues since we were below the surface; and I said, "No; there will surely still be cases where such a thing can happen and where the commander will be faced with an awkward situation and in that case I want to relieve him of such a decision." That was the reason and the meaning of the discussion, nothing else.

SIR DAVID MAXWELL-FYFE: We will continue. That is the first part of the order. Now take Paragraph 2, "Orders for bringing in captains and chief engineers still apply." Now, Defendant, you know perfectly well that in order to find the captain or chief engineer, the U-boat has got to go around the lifeboats or wreckage and make inquiries, "Where is the captain?" And you know very well that the usual practice of the British merchant navy was to try and hide the captain and prevent them finding out who he was. Is that not the practical position that had to be met, that you had to go around the lifeboats asking for the captain if you wanted to bring him in? Is that not so?

DÖNITZ: Not exactly, no. I stated quite clearly yesterday that, first, the risk of taking aboard one man was much less as far as time was concerned, and would not limit the crash diving ability of the boat, whereas rescuing activities would limit severely the crash diving ability. Secondly, that that had a military aim ordered by the Naval Operations Staff for which, as is always the case in war, a certain risk would have to be taken; and, thirdly, that the significance of that paragraph appeared to all of us to be unimportant, the results being always poor. This order, if you want to construe it like this and take it out of its context, militates against your contention that I wanted to destroy these people;

because I wanted to take prisoners, and if I intended to kill somebody first, then I certainly could not have taken him prisoner.

SIR DAVID MAXWELL-FYFE: I am putting it to you that the second part of the order is that you are to bring in captains and chief engineers to find out what you can from them.

Look at the third paragraph: "Rescue ship crews only if their statements will be of importance for U-boats," that is, of importance for you to learn from them the position of Allied ships or the measures the Allies are taking against submarines. That is the point against two and three, is it not? You are only to take prisoners if you can find out some useful thing from them?

DÖNITZ: I think it is taken for granted that we should try to get as much information as possible, and since I cannot take the whole crew as prisoners on a U-boat, I have to confine myself to the most important persons. Therefore I remove these people from further engagement, whereas the others may engage again. Of course, in view of the limited room on a U-boat, I do not take unimportant people but the important ones.

SIR DAVID MAXWELL-FYFE: I do not want to take up a lot of time, but I want you to tell me this: Did I understand your explanation of the word "again" in the War Diary to be that you had drawn the attention of certain submarine commanders to your telegrams during the *Laconia* incident, is that your explanation?

DÖNITZ: No, it did not refer to U-boat commanders; and I believe the word "again," as my staff says, referred to those four wireless messages which we have read as meaning this during the last few days and which were submitted to the Tribunal yesterday.

SIR DAVID MAXWELL-FYFE: I put to you a moment ago a question and you said the "again" refers to the messages you sent out during the *Laconia* incident. I think you agree with that, do you not? Do not be afraid to agree with what I say. When was that?

DÖNITZ: Yesterday it was explained to me that there were four wireless messages, and I assumed that the person was summarizing the whole event, and that was probably his way of putting it. He was a chief petty officer and I do not know what he meant when he used the word "again."

SIR DAVID MAXWELL-FYFE: Now you say you had never heard of the Hitler and Oshima conversations which I put to you a few moments ago?

DÖNITZ: No.

SIR DAVID MAXWELL-FYFE: Therefore, one may assume, may one not, that Lieutenant Heisig, who gave evidence, had not

heard of the Hitler and Oshima conversations either; do you not think he could not have heard about it?

DÖNITZ: I assume it was out of the question.

SIR DAVID MAXWELL-FYFE: Did you notice that Heisig said in his evidence that during a lecture he heard you put forward the same argument as Hitler put forward in his conversations with Oshima?

DÖNITZ: First of all I want to state that Heisig here in this witness box said something different from what he said during his interrogation. During cross-examination he has admitted here that I have not said anything about fighting against shipwrecked personnel; secondly, everything else he said is so vague that I do not attach much value to its credibility; thirdly, he stated quite clearly that I did not say this in a lecture but during a discussion, which is in itself of no importance; and fourthly, it may well be that the subject of America's new construction program and the manning of the new ships by trained crews was discussed. It was possible during that discussion.

SIR DAVID MAXWELL-FYFE: Do you now say you agree you never opened any discussion having reference to the American shipbuilding program and the difficulty of finding crews? Do you agree with Heisig on that?

DÖNITZ: The German press was full of that. Everybody read and knew about the shipbuilding program. Pictures were made...

SIR DAVID MAXWELL-FYFE: But the argument I am suggesting to you, you know, was that the building program would be useless if you could destroy or frighten off sufficient merchant navy crews. That is the point in Hitler's conversation, and that Heisig said you said. Did you say that?

DÖNITZ: I have always taken the view that losses of crews would make replacement difficult, and this is stated in my war diary together with similar ideas, and perhaps I said something of the kind to my midshipmen.

SIR DAVID MAXWELL-FYFE: Would you look at Page 37 of the Prosecution document book, Page 76 in the German translation? It is an order dated 7 October 1943 (Document Number D-663, Exhibit Number GB-200). I just want you to look at the last sentence: "In view of the desired destruction of ships' crews, their sinking is of great value."

DÖNITZ: I have read it.

SIR DAVID MAXWELL-FYFE: "In view of the desired destruction of ships' crews, their sinking is of great value," and it is continually pressing, the need for ships' crews.

DÖNITZ: Yes, of course, but in the course of fighting. It is perfectly clear that these rescue ships were heavily armed. They had aircraft and could be sunk just like other convoy ships. If there were steamer crews on hand it was naturally our desire to sink them since we were justified in sinking such crews. Moreover they were used as U-boat traps near the steamers.

SIR DAVID MAXWELL-FYFE: On the question of the rightness or wrongness of sinking rescue ships, the destruction of ships' crews, now, I want to ask you one or two questions about Möhle. He commanded the U-boat Flotilla from 1942 until the end of the war. That is nearly three years; and as he told us, he has a number of decorations for gallant service. Are you telling the Tribunal that Commander Möhle went on briefing submarine commanders on a completely mistaken basis for three years without any of your staff or yourself discovering this? You saw every U-boat commander when he came back.

DÖNITZ: I am sorry that Korvettenkapitän Möhle, being the only one who said he had doubts in connection with this order, as he declared here, did not report this right away. I could not know that he had these doubts. He had every opportunity of clearing up these doubts and I did not know, and nobody on my staff had any idea, that he had these thoughts.

SIR DAVID MAXWELL-FYFE: Now, I have a letter here, a letter from a widow of one of your submarine commanders. I cannot get the commander and this is a letter from his widow. I want you to say what you think of a passage in it.

She says—in the second paragraph—"Captain Möhle says he has not found one U-boat commander who objected to the order to fire at helpless seamen who were in distress in the water."

FLOTTENRICHTER KRANZBÜHLER: I object to the use of this letter. I think this is the sort of letter which cannot be used as an exhibit. It is not sworn, and it is a typical example of the kind of letter which Mr. Justice Jackson has already repeatedly characterized.

SIR DAVID MAXWELL-FYFE: The only point I make is this: The man himself has not come back. His widow can give information as to how he understood his orders before he went out. I should have submitted it with probative value. I think it occurs in Article 19. I will not use it if there is the slightest doubt about it before the Tribunal.

DÖNITZ: It is full of incorrect statements, too. It says there that he, Prien, died in a concentration camp, which is not true.

THE PRESIDENT: Wait just a minute.

DÖNITZ: It is not true.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I have only just finished reading the whole letter.

THE PRESIDENT: Well, the Tribunal is considering the matter at the moment.

FLOTTENRICHTER KRANZBÜHLER: May I state one argument in this connection first?

THE PRESIDENT: Well, we have heard your argument and we are considering the matter.

The Tribunal thinks that it is undesirable and that this document should not be used.

SIR DAVID MAXWELL-FYFE: As Your Lordship pleases.

[Turning to the defendant.] Now I want to deal just for one moment with a passage in your own document book which Dr. Kranzbühler put to you yesterday. It is Volume 2, Page 92, Exhibit 42. Before I ask you a question about it, there is one point that I would like you to help me on. In your interrogation you said that on 22 October that about two months after that order of 17 September you issued orders forbidding U-boats to surface at all. Is that right? You gave orders forbidding U-boats to surface, is that right?

DÖNITZ: So far as it is possible for a submarine not to do so at all. We were always making changes, day and night, and it depended upon the degree of danger and weather conditions whether we gave orders for the U-boats to surface and re-charge when on the move.

SIR DAVID MAXWELL-FYFE: They were not to surface after attacks, were not to surface at all before or after attacks; is that not the effect of your order?

DÖNITZ: Of course submarines, for example at night, had to be on the surface for attacks, but the main thing was to avoid every risk when on the move.

SIR DAVID MAXWELL-FYFE: Then two months later there was an order that they were to surface as little as possible, and you tell me it was your order?

DÖNITZ: As far as possible they were to try by all means to avoid danger from the air.

SIR DAVID MAXWELL-FYFE: Did you give orders as to surfacing?

DÖNITZ: I gave them quite a number of orders, as I have already said, according to the weather, according to what part of the sea they were in, and whether it was day or night. The orders were different according to these factors, because the danger depended

on these elements and varied accordingly. There were changes too; if we had bad experiences, if we found that night was more dangerous than day, then we surfaced during the day. We had the impression that in the end it was better to surface during the day, because then one could at least locate beforehand the aircraft attacking by direction-finding, so we changed.

SIR DAVID MAXWELL-FYFE: But it is a fact that quite soon after this order the Allied air cover became so heavy that—I quote your own words; you say, "Two months later submarines were no longer in a position to surface." That is, as I understood it, surfacing became very difficult in view of the heavy nature of Allied air attacks, is that right?

DÖNITZ: Yes, they did not have a chance to come to the surface in certain waters without being attacked immediately. That is just the point. The submarines were however in readiness, in the highest degree of readiness—and that is the big difference, for in rescue work readiness is disrupted; yet these heavy losses and difficulties occurred at the height of readiness.

SIR DAVID MAXWELL-FYFE: Now I want you to look at Page 93. It is the page after the one I referred you to in Volume II of your document book; do you see Paragraph 1?

DÖNITZ: Yes.

SIR DAVID MAXWELL-FYFE: "The percentage of merchant vessels sunk out of convoys in 1941 amounted to 40 percent; in the entire year of 1942 to barely 30 percent; in the last quarter of 1942 to 57 percent; in January 1943, to about 65 percent; in February to about 70 percent; and in March to 80 percent."

Your worst period was the first three quarters of 1942, is that not so? That appears from your own figures.

DÖNITZ: Which "worst period"? What do you mean? I do not understand.

SIR DAVID MAXWELL-FYFE: Well, it is Page 93, Paragraph 1.

DÖNITZ: Yes, but how do you mean, "worst period"?

SIR DAVID MAXWELL-FYFE: Well, the percentage of sunk merchant vessels in convoys in 1941 amounted to 40 percent.

DÖNITZ: You mean merchant ships?

SIR DAVID MAXWELL-FYFE: Yes, I am reading your own war diary, or rather the naval war staff War Diary. "In the entire year of 1942 to barely 30 percent . . ."

DÖNITZ: From convoys?

SIR DAVID MAXWELL-FYFE: Convoys, yes. So that the worst period that you had was the first three quarters of 1942?

DÖNITZ: No. In 1942, as I have already said in my description of the entire situation, a large number of submarines were just outside the ports, they were off New York, off Trinidad, *et cetera,* so that they are not mentioned here. In this list only the sinkings carried out by those packs which were attacking the convoys in the North Atlantic are mentioned.

SIR DAVID MAXWELL-FYFE: But is it not right that these figures mean that your worst period was the first three quarters of 1942? It must have been around 30 percent.

DÖNITZ: No, my most successful period was the year 1942.

SIR DAVID MAXWELL-FYFE: Well, how can you call it the most successful period if for the entire year of 1942 your percentage of sunk merchant vessels in convoys is only 30 percent, whereas in January and February and March 1943, it got up to 65, 70, and 80 percent?

DÖNITZ: Quite right, that is so. Of the merchant ships sunk in 1942, 30 percent were sunk in the Atlantic, but the total figure was much larger than, for instance, in 1943, when 65 and 70 percent were sunk; and that is simply because at that time in 1943 we could no longer remain outside a port like New York. This indicates percentages of sinkings in the Atlantic from convoys only.

SIR DAVID MAXWELL-FYFE: You see what I am putting to you is this, that in 1942, when your percentage from convoys was low, when you had had that pressure that I have gone into with you before, there was every reason for you to issue an unequivocal order which would have the effect of getting submarine commanders to destroy the crews of the ships. In 1943 your U-boats were not surfacing, your convoy proportions had gone up, and there was not any reason to make your order more explicit. That is what I am suggesting to you, Defendant.

DÖNITZ: I consider that that is quite wrong.

SIR DAVID MAXWELL-FYFE: Now I just want to...

DÖNITZ: It was like this. As I already said, from the summer of 1942 onwards we found that the danger from the air suddenly increased. This danger from the air was making itself felt in all waters, also in those waters where submarines were not fighting convoys or were not fighting just outside the ports.

SIR DAVID MAXWELL-FYFE: Now I just want you to help me on one other point. Dr. Kranzbühler put to you yesterday that Kapitänleutnant Eck said that if he had come back he would not have expected you to have objected or been angry with him for

shooting up the crew of the *Peleus*. You said you knew that Eck was carrying this order of yours in his locker when he did shoot up the crew of the *Peleus*?

DÖNITZ: Yes, but I also know that this order did not have the slightest effect on his decision but that, as Eck has expressly said, his decision was to shoot up the wreckage; and he had quite a different aim, namely, to remove the wreckage because he was afraid for his boat which would have been smashed to pieces just like other boats in those wakes. He stated clearly that there was no connection whatsoever in his mind between the order with reference to the *Laconia,* which he had on board quite accidentally, and his decision.

SIR DAVID MAXWELL-FYFE: Now you know there are two other cases before the Tribunal, the *Noreen Mary* and the *Antonico,* which are on Pages 47 and 52 of the Prosecution's document book, where witnesses give specific evidence of the U-boat carrying out attacks on them when they are in one case on wreckage and in the other case in the lifeboat. Will you look at the *Noreen Mary* on Page 47 of the document book? The testament of the survivor is on Pages 49 and 50. He deals with this point; he says in the fourth paragraph—Page 85 of the German book . . .

DÖNITZ: I have the English document book.

SIR DAVID MAXWELL-FYFE: It is Page 50 of the English one; I have got the English document:

> "I swam around until I came across the broken bow of our lifeboat, which was upside down, and managed to scramble on top of it. Even now the submarine did not submerge but deliberately steamed in my direction and when only about 60 to 70 yards away fired directly at me with a short burst from the machine gun. As their intention was quite obvious I fell into the water and remained there until the submarine ceased firing and submerged, after which I climbed back on to the bottom of the boat."

The statement by the Brazilian gentleman you will find on Page 52. Have you got it?

DÖNITZ: Yes, I have got it.

SIR DAVID MAXWELL-FYFE: Fifteen lines from the foot, he says, ". . . the enemy ruthlessly machine-gunned the defenseless sailors in Number 2 lifeboat . . ."

Assuming—of course one has to assume—that Mr. McAllister and Senhor de Oliveira Silva are speaking the truth, are you saying that these U-boat officers were acting on their own?

DÖNITZ: It is possible that the men might have imagined these happenings. I want to point out, however, that in a night

fight—let us take the case of the *Antonico* first—which lasted 20 minutes, it could very easily have been imagined that these were shots, or that shots directed against the ship hit a lifeboat. At any rate, if someone makes a report on a night attack lasting 20 minutes, then it is a subjective report and everyone who knows how these reports vary, knows how easily a seaman can make a mistake. If, during such a night fight, the U-boat had wanted to destroy these people, then it would not have left after 20 minutes, particularly as the person states that he could not see the submarine in the darkness. These are certainly all very vague statements.

The case of the *Noreen Mary* is quite similar. A large number of statements are made in this deposition which certainly are not true; for instance, that the submarine bore a swastika. Not a single submarine went to sea painted in any way. If someone is on some wreckage or in a lifeboat and there are shots nearby, then he very easily feels that he is being shot at. It was for this very reason that quite a number of cases of the Anglo-American side have been mentioned by us; not because we wanted to make an accusation, but because we wanted to show how very skeptical one has to be regarding these individual reports.

And the only cases in 5½ years of war, during several thousand attacks, are the ones brought up here.

SIR DAVID MAXWELL-FYFE: Yes, and of course for the 2½ of these years that the submarine commanders have been shooting up survivors, you are not likely to get many cases, are you? I just want to ask you one other point . . .

DÖNITZ: Submarine commanders with the exception of the case of Eck have never shot up shipwrecked persons. There is not a single instance. That is not true.

SIR DAVID MAXWELL-FYFE: That is what you say.

DÖNITZ: In no case is that proved. On the contrary, they made the utmost efforts to rescue. No order to proceed against shipwrecked people has ever been given the U-boat force, with the exception of the case of Eck, and for that there was a definite reason. That is a fact.

SIR DAVID MAXWELL-FYFE: Well, now, tell me this: Did you know that the log of the *Athenia* was faked, after she came in?

DÖNITZ: No, it was not faked, but there was a clear order that the case of the *Athenia* should be kept secret for political reasons and, as a result, the log had to be changed.

SIR DAVID MAXWELL-FYFE: I see. You do not like the word "faked." Well, I will use the word "changed"; that a page was

cut out of the log and a false page had been put in. Did you know about that?

DÖNITZ: I cannot tell you that today. It is possible. Probably Captain Lemp received the order either from me or my staff: "The case is to be kept secret." And following that, he or the flotilla took the log, which went to ten different departments of the Navy, and altered it. What else could he do? He could not do otherwise.

SIR DAVID MAXWELL-FYFE: I want to know, was it your order and with your knowledge that that log was altered from, I suppose, the truth into the falsity in which it exists today? That is a simple question. Can you answer it?

DÖNITZ: Yes. Either it was done by my order or, if it had not been done, then I would have ordered it, because the political instructions existed that "it must be kept secret." The fighting men had no other choice, therefore, but to alter the log. The U-boat commanders never received the order to make a false entry, but in the particular case of the *Athenia,* where it was ordered afterwards that it must be kept secret, it was not noted in the log.

SIR DAVID MAXWELL-FYFE: Well, now I have only one other point to deal with you, and I can deal with it quite shortly. You were a firm adherent of ideological education for service personnel, were you not?

DÖNITZ: Yes, I have explained my reasons.

SIR DAVID MAXWELL-FYFE: Well, I just want to get this, and then you can explain your reasons afterwards. You thought it nonsense that a soldier should have no politics, did you not? If you want to...

DÖNITZ: Of course. The soldier had nothing to do with politics; but, on the other hand, he naturally had to stand by his country during the war.

SIR DAVID MAXWELL-FYFE: And you wanted your commanders to indoctrinate the Navy with Nazi ideology, did you not?

DÖNITZ: I wanted the troops' commanders to tell them that the unity of the German people as it existed then was a source of strength for our conduct of the war and that consequently, since we enjoyed the advantages of this unity, we also should see to it that the unity should continue, because during the World War we had had very bad experiences precisely because of that. Any lack of unity among the people would have necessarily affected the conduct of the war.

SIR DAVID MAXWELL-FYFE: Look at Page 7 in the English document book (Document Number D-640, Exhibit Number GB-186).

I think it puts it almost exactly as in my question. The last sentence:

> "From the very start the whole of the officers' corps must be so indoctrinated that it feels itself coresponsible for the National Socialist State in its entirety. The officer is the exponent of the State. The idle chatter that the officer is nonpolitical is sheer nonsense."

That is your view, is it not?

DÖNITZ: I said that. But you have also got to read from the beginning, where it says that our discipline and our fighting strength is miles above that of 1918 and the reason is because the people as a whole are behind us, and if that had not been the case then our troops would have become disintegrated long ago; that is the reason why I said that.

SIR DAVID MAXWELL-FYFE: Tell me, how many men were you attempting to apply this to, or how many men had you got in the Navy on the 15th of February 1944? I want to see what body you were trying to affect. How many? A quarter of a million?

DÖNITZ: 600,000 or 700,000.

SIR DAVID MAXWELL-FYFE: Now, I would just like you to turn to the next page, Page 8 in the British document book, which gives your speech on Heroes' Day, 12 March 1944. You say this:

> "What would have become of our country today if the Führer had not united us under National Socialism? Split parties, beset with the spreading poison of Jewry, and vulnerable to it because we lacked the defense of our present uncompromising ideology, we would long since have succumbed under the burden of this war and delivered ourselves up to the enemy who would have mercilessly destroyed us." (Document Number 2878-PS)

What did you mean by the "spreading poison of Jewry"?

DÖNITZ: I meant that we were living in a state of unity and that this unity represented strength and that all elements and all forces . . .

SIR DAVID MAXWELL-FYFE: No, that is not what I asked. I am asking you, what did you mean by the "spreading poison of Jewry"? It is your phrase, and you tell us what you meant by it.

DÖNITZ: I could imagine that it would be very difficult for the population in the towns to hold out under the stress of heavy bombing attacks if such an influence was allowed to work, that is what I meant.

SIR DAVID MAXWELL-FYFE: Well, now, can you tell me again; what do you mean by the "spreading poison of Jewry?"

DÖNITZ: It means that it might have had a disintegrating effect on the people's power of endurance, and in this life-and-death struggle of our country I, as a soldier, was especially anxious about this.

SIR DAVID MAXWELL-FYFE: Well, now, that is what I want to know. You were the Supreme Commander and indoctrinated 600,000 or 700,000 men. Why were you conveying to them that Jews were a spreading poison in party politics? Why was that? What was it that you objected to in Jews that made you think that they had a bad effect on Germany?

DÖNITZ: That statement was made during my memorial speech on Heroes' Day. It shows that I was of the opinion that the endurance, the power to endure, of the people, as it was composed, could be better preserved than if there were Jewish elements in the nation.

SIR DAVID MAXWELL-FYFE: This sort of talk, "spreading poison of Jewry," produced the attitude in the mind which caused the death of five or six million Jews in these last few years. Do you say that you knew nothing about the action and the intention to do away with and exterminate the Jews?

DÖNITZ: Yes, of course I say that. I did not know anything at all about it and if such a statement was made, then that does not furnish evidence that I had any idea of any murders of Jews. That was in the year 1943.

SIR DAVID MAXWELL-FYFE: Well, what I am putting to you is that you are joining in the hunt against this unfortunate section of your community and leading six or seven hundred thousand of the Navy on the same hunt.

Now, just look at Page 76 of the document book in this last reference to you . . .

DÖNITZ: Nobody among my men thought of using violence against Jews, not one of them, and nobody can draw that conclusion from that sentence.

SIR DAVID MAXWELL-FYFE: Well, now, just look at Page 76. This is where you are dealing with the promotion of under officers and men who have shown themselves to be personalities in warfare. You first of all say:

> "I want the leaders of units responsible for ratings and the flotilla commanders and other commanders superior to them to interest themselves more in the promotion of those petty officers and men who have shown in special situations in the

war that, thanks to their inner attitude and firmness, their energetic and inner drive, in short, owing to their personal qualities, they are capaple of taking the right decisions independently and of carrying them out without wavering in their aim and with willing acceptance of responsibility.

"One example: On the auxiliary cruiser *Cormoran,* which was used as a place of detention in Australia, a warrant officer, acting as senior camp officer, had all communists who made themselves noticeable among the inmates of the camps systematically and unobtrusively done away with. This petty officer is sure of my full recognition for his decision and its execution; and after his return I shall do everything I can to promote him, as he has shown he is fitted to be a leader."

Was that your idea of leadership in this National Socialist indoctrinated Navy; that he should murder political opponents in a way that would not be found out by the guards?

DÖNITZ: No, it was not so. It has been reported to me that there was an informer there who, when new crews were brought in, was smuggled into the camp and, after listening around, passed information on to the enemy. The result was that on the strength of that information U-boats were lost. And it was then that the senior man in the camp, a petty officer, decided to remove that man as a traitor. That is what was reported to me and what I shall prove by a witness. In my opinion, and every nation will recognize that, the man acted like anyone else who finds himself in an extremely difficult situation and he had to...

SIR DAVID MAXWELL-FYFE: Why did you not say that, Defendant? If you had stated that this man had killed a spy, who by the spreading of information was dangerous, I would not have put this to you. But what you say is that it was communists who made themselves noticeable, and this man had killed them without knowledge of the guard. Why do you put communists in your order if you mean a spy?

DÖNITZ: I think this is an order from a Baltic station. I had been told that it concerned a spy, and it is something that a witness will prove. If there were reasons—perhaps intelligence reasons—for not divulging that...

SIR DAVID MAXWELL-FYFE: Are you putting the responsibility for this order on one of your junior officers? Are you saying it was one of your junior officers who put the order out like this? It was not what you meant at all? Is that what you are saying?

DÖNITZ: I have merely said how the order came about; up to now, I have not once shirked the responsibility.

SIR DAVID MAXWELL-FYFE: All right.

THE PRESIDENT: The Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: Is there any further cross-examination?

COLONEL POKROVSKY: My Lord, the Soviet Prosecution has several questions to ask the Defendant Dönitz.

[Turning to the defendant.] Defendant Dönitz, your address to the German people and your order to the Armed Forces in connection with Hitler's death were drafted by you on 30 April 1945, is that not so?

DÖNITZ: Yes.

COL. POKROVSKY: In these documents you informed the people that Hitler's successor, appointed by Hitler himself, was you. That is correct, is it not?

DÖNITZ: Yes.

COL. POKROVSKY: Did you ask yourself then for what particular reason Hitler selected you?

DÖNITZ: Yes, I put that question to myself when I received that telegram, and came to the conclusion that after the Reich Marshal had been removed, I was the senior officer of an independent branch of the Armed Forces, and that that was the reason.

COL. POKROVSKY: In your address to the Army and to the people, you demanded the continuation of military operations, and all those who were opposed to resistance were called traitors and cowards, is that not so?

DÖNITZ: Yes.

COL. POKROVSKY: A few days afterwards, you gave an order to Keitel to capitulate unconditionally, is that not right?

DÖNITZ: Yes. I said quite clearly in the first order that I would fight in the East until troops and refugees could be rescued from the East and brought to the West and that I would not fight one moment longer. That was my intention, and that is also clearly expressed in that order.

COL. POKROVSKY: By the way, there was not a word about it in this order, but that is not so important. Do you agree that on 30 April...

DÖNITZ: I...

COL. POKROVSKY: First listen to my question and then answer. Do you agree with the fact that on 30 April also, right on the

day when you published the two documents that we are talking about now, it was absolutely clear that further resistance of Hitlerite Germany was absolutely aimless and useless?

Do you understand my question? Do you agree with that?

DÖNITZ: Yes, I understood the question. May I say the following: I had to continue fighting in the East in order to rescue the refugees who were moving to the West. That is certainly very clearly stated. I said that we would continue to fight in the East only until the hundreds and thousands of families from the German eastern area could be safely transferred to the West.

COL. POKROVSKY: Still you did not answer my question, Dönitz, did you, even though it was very clearly put. I repeat it once again so that you can manage to understand it. Do you agree with the fact that already on 30 April it was fully clear that further resistance of Hitlerite Germany was absolutely aimless and useless? Answer me "yes" or "no."

DÖNITZ: No, that was not clear. From the military point of view the war was absolutely lost, and there was then only the problem of saving as many human beings as possible, and therefore we had to continue resistance in the East. Therefore that resistance in the East had a purpose.

COL. POKROVSKY: Very well, I understand you, but will you deny that your order, which called for a continuation of the war, led to further bloodshed?

DÖNITZ: That is extremely small, compared to the one or two millions which otherwise would have been lost.

COL. POKROVSKY: One moment, please; will you wait. Do not try and make any comparisons. First answer and then explain. That is the order that we have to follow here all the time. First "yes" or "no," and then an explanation, please.

DÖNITZ: Of course, in the fighting in the East during those few days there might be further losses, but they were necessary in order to save hundreds of thousands of refugees.

COL. POKROVSKY: You did not answer my question. I shall repeat it for the third time.

THE PRESIDENT: He did answer; he said "yes," that bloodshed would be caused. That is an answer to your question.

COL. POKROVSKY: Thank you.

[Turning to the defendant.] I would like you to explain exactly the question of whether you look upon yourself, first and foremost, as a politician, or do you look upon yourself as a soldier who obeyed direct orders of his own superiors without any analysis of the political meaning and content of such orders?

DÖNITZ: I do not understand that question completely. As head of State, from 1 May on, I was a political man.

COL. POKROVSKY: And before that time?

DÖNITZ: Purely a soldier.

COL. POKROVSKY: On 8 May 1946, at 1635 hours, in this room you mentioned, "As a soldier I did not have in mind such political considerations as might have been in existence." On 10 May, at 1235 hours, here, you said, when the question of submarine warfare was taken up, "All this concerns political aims; but I, as a soldier, was concerned with military problems." Is that not so?

DÖNITZ: Yes, it is quite correct. I said that before 1 May 1945 I was purely a soldier. As soon as I became the head of State I relinquished the High Command of the Navy because I became the head of State and therefore a political personality.

COL. POKROVSKY: Sir David Maxwell-Fyfe, about 15 minutes ago, addressed you also and referred to two documents, and in particular to Document GB-186, D-640; and he cited one sentence from this, one sentence which grossly contradicts what you said just now. You remember this sentence "idle chatter"?

DÖNITZ: Yes, I know exactly what you mean.

COL. POKROVSKY: I want to ask you: How can you reconcile these two extremely contradictory statements, the statement about "idle chatter," about the fact that the officer is not a politician. This statement took place on 15 February 1944, at the time when you were not the supreme head of the State. Is that not so?

DÖNITZ: If a soldier during the war stands firmly behind his nation and his government, that does not make him a politician; that is said in that sentence and that was meant by that sentence.

COL. POKROVSKY: All right. We will be more exact about whether this is really the fact. Several times, in a very definite manner, you testified here before the Tribunal that for many years before the war and during the war you were indoctrinating the Navy in the spirit of pure idealism and firm respect for the customs and laws of war. Is that so?

DÖNITZ: Right; yes.

COL. POKROVSKY: In particular, on 9 May, yesterday, at 1254 hours, you said, "I educated the submarine fleet in the pure idealism and I continued such education during the war. It was necessary for me in order to achieve high fighting morale." Five minutes later on the same day, you said, when speaking about the Navy, "I never would have tolerated that orders were given to these people which would be contradictory to such morale, and it is out of the question

that I myself could have given such an order." You acknowledge that those were your words, or approximately your words, allowing for the possible inexactness of translation; is that not so?

DÖNITZ: Of course, that is what I said.

COL. POKROVSKY: I would like you to take a look at the document which is in your possession now, the document presented by your defense counsel as Dönitz-91. In this document your defense counsel presents an excerpt from the testimony, the affidavit made by Dr. Joachim Rudolphi. In order not to waste the Tribunal's time, I would like you to tell us briefly in one word, "yes" or "no," whether Rudolphi is correct in his testimony; that you always strongly opposed the introduction into the German Armed Forces of the Hitlerite so-called "People's Courts." Did you understand me?

DÖNITZ: I was against handing over legal cases from the Navy to other courts. I said that, if one bears the responsibility for a branch of the Armed Forces, one also must have court-martial jurisdiction. That is what it says.

COL. POKROVSKY: And you are familiar with Rudolphi's affidavit?

DÖNITZ: Yes, I know it.

COL. POKROVSKY: You remember that on the first page of that excerpt presented to the Tribunal it says:

"Early in the summer of 1943, the first threatening attempt to undermine the nonpolitical jurisdiction of the Armed Forces was made."

Is Rudolphi correct in explaining this question and is it true that you were against this attempt to introduce special political courts into the Navy and Armed Forces? Is that correct?

DÖNITZ: According to my recollection, my resistance began in the summer 1943. It may be that already in the spring the jurisdiction of the Wehrmacht was threatened. That may be, but I did not learn of it.

COL. POKROVSKY: Do you acknowledge, Dönitz, or not, that these so-called "People's Courts" were to deal, as Rudolphi puts it, with anything that smacked, even remotely, of politics? That is his sentence which you can find on the first page of Document D-91.

DÖNITZ: As I have already stated, my point of view was the following: I wanted to keep my soldiers under my own jurisdiction. I could not judge proceedings outside the Navy, because I did not know the legal procedure. My point was that my soldiers should remain with me and be sentenced by me.

COL. POKROVSKY: For all kinds of crimes, including political crimes, is that not so? Did I understand you correctly?

DÖNITZ: Yes, I meant that; I have stated that I was of the opinion that they should remain under Navy jurisdiction.

COL. POKROVSKY: Will you deny, Dönitz, that you were always preaching and always encouraging in every way the murder of defenseless people from among the members of the German Armed Forces for purely political reasons and that you always looked upon such murders as acts of military valor and heroism?

DÖNITZ: I do not understand you. I do not know what you mean.

COL. POKROVSKY: You did not understand my question?

DÖNITZ: No, I have not understood the meaning of your question at all.

COL. POKROVSKY: I can repeat it. Perhaps it will be clearer to you. I am asking you: Will you deny the fact that you preached in favor of the murder of members of the German Armed Forces, by other members of the German Armed Forces and purely for political reasons? Now, is the question clear to you?

DÖNITZ: How do you come to ask this question?

THE PRESIDENT: The Tribunal does not find your question quite clear.

COL. POKROVSKY: What I have in mind, My Lord, is the Order Number 19 for the Baltic Fleet, which in part was dealt with by Sir David Maxwell-Fyfe. There is one point of this order which elucidates, with absolute precision, the motives for publishing and promulgating this order. One idea is expressed there in a very clear manner—and with your permission I shall read one paragraph from this document. "One example"—it says in Order Number 19, last paragraph but one—"On the auxiliary cruiser *Cormoran*, which was used as a place of detention in Australia a warrant officer . . ."

THE PRESIDENT: Which paragraph?

COL. POKROVSKY: The last paragraph but one of Document D-650, Page 4 of the English text. I beg your pardon, Page 4 of the German text, and the last paragraph on the third page of the English copy.

THE PRESIDENT: It was read already in cross-examination.

COL. POKROVSKY: This particular part was not read in the cross-examination, and it is really very important for the case.

THE PRESIDENT: We have just heard this very question, this very example, read by Sir David Maxwell-Fyfe, not half an hour ago.

COL. POKROVSKY: But Sir David, in reading this example, did not read one particular sentence which is of great importance to me and which clarifies Dönitz' position; and that is the reason why I

permitted myself to come back to this particular passage. It is only one sentence which interests me.

THE PRESIDENT: What sentence are you referring to?

COL. POKROVSKY: The first sentence in the second paragraph from the end. It is the paragraph which begins, "One example: In a prisoner-of-war camp . . ."

THE PRESIDENT: You are entirely wrong. He read the whole of the paragraph. Sir David Maxwell-Fyfe read the whole of the paragraph.

COL. POKROVSKY: When, with your permission, I shall read these few words, then you will convince yourself, Sir, that these particular words were not read.

THE PRESIDENT: Colonel Pokrovsky, I have a note in my notebook made at the time, which shows that the whole of this was read; that the defendant was cross-examined about the meaning of the word "communist"; and that he explained it by saying that he was referring to a spy among the crew who might give away submarine secrets. The whole matter was gone into fully by Sir David Maxwell-Fyfe, and the Tribunal does not wish to hear any more about it.

COL. POKROVSKY: It is absolutely necessary for me to read two expressions from this sentence which were not read into the record here, and I ask your permission to read these two words.

THE PRESIDENT: Which two words do you say were not read? State the two words.

COL. POKROVSKY: "Systematically" and "unobtrusively," that is, according to plan. They are not talking about one particular instance, but they are talking about the whole definite plan, about the system.

THE PRESIDENT: Yes, but that was all read, Colonel Pokrovsky. You must have missed it.

COL. POKROVSKY: I am not saying that Sir David has omitted that.

THE PRESIDENT: That was read by Sir David Maxwell-Fyfe and put to the witness, to the defendant.

COL. POKROVSKY: Perhaps Sir David may have accidentally omitted this, but it is really very important for me, because Dönitz testified here to the killing of only one spy; but what is really meant here is that there was a plan to exterminate all communists, or rather men who were supposed to be communists, according to the idea of some petty officer.

THE PRESIDENT: It is exactly what Sir David Maxwell-Fyfe put to the witness. He said, "How can you say that this refers to a

case of spies or one spy, when it is referring to all communists"? It is exactly the question he put to him.

COL. POKROVSKY: Perhaps I did not understand quite correctly what our interpreter translated, but in our translation this was not mentioned.

Then with your permission I will go to the next question.

[Turning to the defendant.] Will you deny, Dönitz, that in this order, as the one example of high military valor—that military valor which serves as the basis or the reason for extraordinary promotion of noncommissioned officers and officers—you used, as one example, the treacherous and systematic murder of people for political reasons? Do you deny that this order was correctly understood?

DÖNITZ: No, that is quite wrong. This order refers to one incident in a prisoner-of-war camp, and it should be considered in what serious dilemma the senior member of the camp found himself and that he acted in a responsible and correct manner by removing in the interests of our warfare as a traitor that communist who was at the same time a spy. It would have been easier for him if he had just let things take their course, which would have harmed the U-boats and caused losses. He knew that after his return home he would have to account for it. That is the reason why I gave this order.

COL. POKROVSKY: Perhaps you will agree that the incidents, as you explain them now, are absolutely different from what is written in your order.

THE PRESIDENT: I have already told you that the Tribunal does not wish to hear further cross-examination upon this subject. You are now continuing to do that, and I must draw your attention again clearly to the ruling of the Tribunal that the Tribunal will not hear further cross-examination upon this subject.

COL. POKROVSKY: In the light of this document, I ask you how do you explain your statements about your alleged objections in principle to special political courts being introduced into the Navy, that is, the considerations in principle which were testified to by Dr. Rudolphi? How do you explain this contradiction?

DÖNITZ: I did not understand what you said.

COL. POKROVSKY: You say here that the document does not deal with political acts, whereas the order is formulated very precisely and Dr. Rudolphi testified to the fact that you were against introducing political courts into the Army and the Navy. Obviously there is a contradiction in terms here, and I would like to have this contradiction explained.

DÖNITZ: I do not see any contradiction, because Dr. Rudolphi says that I was against handing over legal cases to courts outside of the Navy and because the case of the *Cormoran* deals with an action by the senior camp member, far away in a prisoner-of-war camp in a foreign land. He decided on this action only after grave deliberation, knowing that at home he would have to answer for it before a military court. He did this because he considered it necessary, in the interests of the conduct of the war, to stop the loss of submarines by treason. Those are two entirely different things. Here we deal with an individual case in the *Cormoran* camp.

COL. POKROVSKY: What you are testifying to now is a repetition of what you said before; and, as you heard, the Tribunal does not want to listen to it any more. This is really not an answer to my question.

DÖNITZ: Yes. In answering your question I cannot say anything but the truth, and this is what I have done.

COL. POKROVSKY: Of course our ideas of truth may be altogether different. I, for instance, look upon this question in an altogether different manner. This fact . . .

DÖNITZ: Will you excuse me. I am under oath here, and you do not want to accuse me of telling an untruth, do you?

COL. POKROVSKY: We are not talking about false testimony, but we are talking about a different approach to the idea of truth. I, for instance, consider that by this order you revealed yourself as a real . . .

DÖNITZ: No, I cannot agree with that.

THE PRESIDENT: Will you kindly put the question if you want to put a question?

COL. POKROVSKY: I want to ask him one question, My Lord, and I must explain to him why I am asking this question.

[Turning to the defendant.] I consider this order a revelation of your loyalty, your fanatical loyalty, to fascism; and in this connection I want to ask you whether you consider that it was because of the fact that you showed yourself to be a fanatical follower of fascism and fascist ideas that Hitler chose you to be his successor—because you were known to Hitler as a fanatical follower who was capable of inciting the Army to any crime in the spirit of the Hitlerite conspirators and that you would still call these crimes pure idealism. Do you understand my question?

DÖNITZ: Well, I can only answer to that that I do not know. I have already explained to you that the legitimate successor would have been the Reich Marshal; but through a regrettable misunderstanding a few days before his appointment, he was no longer in the

game, and I was the next senior officer in command of an independent branch of the Wehrmacht. I believe that was the determining factor. That fact that the Führer had confidence in me may also have had something to do with it.

COL. POKROVSKY: The Soviet Prosecution, My Lord, has no more questions to ask of this defendant.

THE PRESIDENT: Dr. Kranzbühler, do you want to re-examine?

FLOTTENRICHTER KRANZBÜHLER: I should like to put a few more questions, Mr. President.

[Turning to the defendant.] Admiral, during the cross-examination by Sir David you were asked about your knowledge of conditions in concentration camps; and you wanted to make an additional statement, which you could not do at the time. What personal connections did you have with any inmates of concentration camps, or did you have any connections at all?

DÖNITZ: I had no connections with anybody who had been sent to a concentration camp; with the exception of Pastor Niemöller. Pastor Niemöller was a former comrade of mine from the Navy. When my last son was killed, he expressed his sympathy; and on that occasion I asked him how he was.

FLOTTENRICHTER KRANZBÜHLER: When was that?

DÖNITZ: That was in the summer of 1944, and I received the answer that he was all right.

FLOTTENRICHTER KRANZBÜHLER: Did you write him directly, or how did it happen?

DÖNITZ: No. I received this information through a third person.

FLOTTENRICHTER KRANZBÜHLER: Was that the only message you received from a concentration camp?

DÖNITZ: The only one I received.

FLOTTENRICHTER KRANZBÜHLER: In the cross-examination a report by Captain Assmann was presented about a conference with the Führer in May 1943. You remember its contents. You are alleged to have said that in view of the present naval war situation, it was desirable that Germany should get possession of Spain and Gibraltar. Did you make a positive suggestion in that direction? One cannot see that from the document.

DÖNITZ: Of course, when I discussed the situation, I mentioned the danger of the narrow strip along the Bay of Biscay; and I said that it would be more favorable to us if we could start our U-boats from a wider area. At that time nobody even contemplated a move against Spain, either with the consent of Spain or in the form of an attack. It was quite obvious that our forces were in no way sufficient

for that. On the other hand, it is quite understandable that, in showing my concern about that narrow strip, I should say that it would have been better if the area had been larger. That is what I meant by that statement. I was referring to U-boat warfare and not to any move against Spain on land. It certainly would have been impossible for me as a naval officer to make a suggestion to attack Spain.

FLOTTENRICHTER KRANZBÜHLER: In connection with the sinking of the *Athenia* it has been hinted that your statement was considered an excuse; that is, that the commanding officer of the submarine confused the *Athenia* with an auxiliary cruiser. Therefore, I should like to put to you an excerpt from the war diary of the officer commanding in that action and I want you to confirm that it is really by the same commanding officer. I shall read from the document of the Prosecution, Exhibit GB-222, on Page 142 of my document book, Volume III. It is the war diary of the submarine U-30. The excerpt is dated 11 September 1939, Page 142 in document book, Volume III.

"Sighted a blacked-out vessel. Got on its trail. In zigzag course recognized as merchant ship. Requested to stop by morse lantern. Steamer signals 'not understood,' tries to escape in the thick squall and sends out SOS 'chased by submarine' and position by radiotelegraphy.

"Gave 'stop' signal by radio and morse lantern.

"Ran ahead. First 5 shots with machine gun C/30 across the bow. Steamer does not react. Turns partly, about 90°, directly toward the boat. Sends 'still chased.' Therefore, fire opened from aft bearing with 8.8 cm. English steamer *Blairlogie,* 4,425 tons.

"After 18 shots and three hits, steamer stops. Crew boards boats. Last message by radio, 'Shelled, taking to boats.' Fire immediately ceased when emergency light was shown and steamer stopped.

"Went over to life boats, gave orders to pull away toward south. Steamer sunk by torpedo. Afterwards both boat crews supplied with Steinhäger and cigarettes. 32 men in two boats. Fired red stars until dawn. Since American steamer, *American Skipper,* was nearby, we departed. Crew was rescued."

Can you confirm, Admiral, that this was an entry by the same commanding officer who nine days before had torpedoed the *Athenia?*

DÖNITZ: Yes, that is the same commander of the same operation who shortly before had committed this error.

FLOTTENRICHTER KRANZBÜHLER: In the cross-examination it was once more maintained, and very definitely, that you had sent an order to destroy to the commanders. I should like to put to you a letter which is signed by various U-boat commanders. You know the letter and know the signatures, and I should like to ask you to tell me whether the U-boat commanders who signed were taken prisoner before September 1942, that is, before your alleged orders to destroy, or whether they were captured afterwards.

I am reading from the document book, Volume II, Page 99, Dönitz-53, which I submit to the Tribunal. It is addressed to the camp commander of the prisoner-of-war camp, Camp 18, in the Featherstone Park camp in England. I received it through the British War Ministry and the General Secretary of the Court. I read under the date of 18 January 1946, and the text is as follows:

"The undersigned commanders, who are now here in this camp and whose U-boats were active on the front, wish to make the following statement before you, Sir, and to express the request that this statement should be forwarded to the International Military Tribunal in Nürnberg.

"From the press and radio we learn that Grossadmiral Dönitz is charged with having issued the order to destroy survivors from the crews of torpedoed ships and not to take any prisoners. The undersigned state under oath that neither in writing nor orally was such an order ever given by Grossadmiral Dönitz. There was an order that for reasons of security of the boat, because of increased danger through defense measures of all kinds, we were not to surface after torpedoing. The reason for that was that experience had shown that if the boat surfaced for a rescue action, as was done in the first years of the war, we had to expect our own destruction. This order could not be misunderstood. It has never been regarded as an order to annihilate shipwrecked crews.

"The undersigned declare that the German Navy has always been trained by its leaders to respect the written and unwritten laws and rules of the sea. We have always regarded it as our honor to obey these laws and to fight chivalrously while at sea."

Then come the signatures of 67 German submarine commanders who are at present prisoners of war in British hands.

I ask you, Admiral—you know these signatures—were these commanders captured before September 1942 or after September 1942?

DÖNITZ: Most of them beyond doubt were made prisoner after September 1942. In order to examine that exactly from both sides,

I should like to see the list again. But most of them beyond doubt were captured after September 1942.

FLOTTENRICHTER KRANZBÜHLER: That is enough. I have no further questions.

DR. LATERNSER: Mr. President, I should like to clarify only one point which came up during the cross-examination.

Admiral, during the cross-examination you have stated that you were present at the situation conferences on 19 and 20 February 1945, and you said . . .

DÖNITZ: No, that this date . . .

DR. LATERNSER: I made a note of it and you will recognize the conference at once. During the situation conference of 19 February, Hitler is alleged to have made the suggestion to leave the Geneva Convention. I ask you now to tell me: Which high military leaders were present during that situation conference?

DÖNITZ: I believe there is a mistake here. I did not hear this question or suggestion of the Führer from his own lips, but I was told about it by a naval officer who regularly took part in these situation conferences. Therefore I do not know for certain whether the date is correct, and I also do not know who was present when the Führer first made that statement. In any case, I remember the matter was again discussed the next day or two days later; and then I believe the Reich Marshal, and of course Jodl and Field Marshal Keitel, were present. At any rate, the whole of the Wehrmacht were unanimously against it; and to my recollection, the Führer, because he saw our objection, did not come back to this question again.

DR. LATERNSER: Thank you. I have no further questions.

THE PRESIDENT: The defendant can return to the dock.

[The defendant left the stand.]

FLOTTENRICHTER KRANZBÜHLER: Mr. President, after the experience of the cross-examination of today, I consider it proper to submit my documents to the Tribunal now, if it pleases the Tribunal, before I call further witnesses. I believe that I can thereby shorten the questioning of the witness and that it will be more easily understood.

THE PRESIDENT: Very well, Dr. Kranzbühler.

FLOTTENRICHTER KRANZBÜHLER: May I first remind the Tribunal that the Prosecution Exhibits GB-224 and GB-191 contain the same general accusations against U-boat warfare as are referred to in many of my following documents. The documents dealing with these general accusations are in Document Books 3 and 4.

First, I submit Document Dönitz-54 which contains the German declaration of adherence to the London Submarine Protocol. I do not need to read it because it has already been mentioned repeatedly.

Then, I ask the Tribunal to take judicial notice of the German Prize Ordinance, an excerpt of which can be found on Page 137. I should like to point out that Article 74 agrees word for word with the regulations of the London Protocol.

May I point out at the same time that, as shown on Page 138, this Prize Ordinance was not signed by the Commander-in-Chief of the Navy. That is a contribution to the question as to whether the Commander-in-Chief of the Navy was a member of the Reich Government. He had no authority to sign this ordinance.

The next document which I submit is Dönitz-55. That is the order of 3 September 1939, with which the U-boats entered the war. I do not know whether these documents are so well known to the Tribunal that I need merely sum them up or whether it is better to read parts of them.

THE PRESIDENT: I think you might mention them together, really, specifying shortly what they relate to.

FLOTTENRICHTER KRANZBÜHLER: Yes. The order of 3 September directs the boats to pay strict attention to all the rules of naval warfare. It orders the war to be conducted according to the Prize Ordinance. Furthermore, it provides for a preparatory order for the intensification of economic warfare, because of the arming of enemy merchant ships. This order is on Page 140. Since I shall refer to that later when examining a witness, I need not read it now.

I should like to read to the Tribunal from an English document, to show that the boats were really acting according to these orders. It is Exhibit Number GB-191. It is in the original on Page 5, Mr. President. That sentence is not in the English excerpt, and that is why I will read it in English from the original:

> "Thus the Germans started with the Ordinance which was, at any rate, a clear, reasonable, and not inhuman document.
>
> "German submarine commanders, with some exceptions, behaved in accordance with its provisions during the first months of the war. Indeed, in one case, a submarine had ordered the crew of a trawler to take to their boat as the ship was to be sunk. But when the commander saw the state of the boat, he said: 'Thirteen men in that boat! You English are no good, sending a ship to sea with a boat like that.' And the skipper was told to re-embark his crew on the trawler and make for home at full speed, with a bottle of German gin and the submarine commander's compliments."

That is an English opinion taken out of a document of the Prosecution.

My next document is Dönitz-56, an excerpt from the War Diary of the Naval Operations Staff of 9 September 1939, on Page 141.

"English information office disseminates the news through Reuters that Germany has opened total U-boat warfare."

Then, as Dönitz-57, on Page 143, I should like to submit to the Tribunal an account of the experiences which the Naval Operations Staff had in U-boat warfare up to that date. It is an entry of 21 September 1939 in the War Diary of the Naval Operations Staff. I read under Figure 2:

"The commanders of U-boats which have returned report the following valuable experiences:

"... (b) English, partly also neutral steamers, sharp zigzags, partly blacked-out. English steamers, when stopped, immediately radio SOS with exact position. Thereupon English planes come in to fight U-boats.

"(c) English steamers have repeatedly tried to escape. Some steamers are armed, one steamer returned fire.

"(d) Up to now no cases of abuse by neutral steamers."

The document on Page 144 of the document book is already in evidence. It is an excerpt from Exhibit GB-222, war diary of the U-boat U-30, of 14 September. I will only read a few sentences from the beginning:

"Smoke clouds. Steamer on sharp zigzag course. Easterly course. Ran towards her. When recognized, turns to counter-course and signals SOS.

"English steamer *Fanad Head,* 5200 tons, bound for Belfast.

"Pursued at full speed. Since steamer does not react to order to stop, one shot fired across her bows from a distance of 2,000 meters. Steamer stops. Crew takes to the boats. Boats pulled out of the danger zone."

I summarize the following: It shows how the U-boat, as a result of the wireless message from the steamer, was attacked by airplanes, what difficulties it had in getting the prize crew on board again, and how, in spite of the bombing attacks of the planes, it did not sink the steamer until two English officers who were still on deck had jumped overboard and had been rescued by the U-boat. The depth charge pursuit lasted for ten hours.

The next document, Dönitz-58, shows that merchant ships acted aggressively against U-boats; and that also is an excerpt from the War Diary of the Naval Operations Staff. I read the entry of 24 September:

"Commander, Submarine Fleet, reports that on 6 September the English steamer *Manaar,* on being told to stop by U-38 after a warning shot, tried to escape. Steamer sent wireless message and opened fire from rear gun. Abandoned ship only after four or five hits, then sank it."

Then, another message of 22 September:

"English reports that, when the English steamer *Akenside* was sunk, a German U-boat was rammed by a steam trawler."

From the document of the Prosecution, Exhibit GB-193, which is copied on Page 147, I should only like to point out the opinion from the point of view of the Naval Operations Staff as to radio messages. I read from Figure 2, two sentences, beginning with the second:

"In almost every instance English steamers, on sighting U-boats, have sent out wireless SOS messages and given their positions. Following these SOS messages from the ship, after a certain time English airplanes always appeared which makes it clear that with the English it is a matter of a military measure and organized procedure. The SOS call together with the giving of the position may therefore be considered as the giving of military information, even as resistance."

The next document, Dönitz-59, shows the approval of the entry submitted by the Commander of the Submarine Fleet that ships which used their wireless when stopped should be sunk. I read the entry of 24 November 1939. It is quite at the bottom, Figure 4:

"On the basis of the Führer's approval, the following order is given to Groups and Commander, Submarine Fleet:

"4) Armed force should be employed against all merchant vessels using wireless when ordered to stop. They are subject to seizure or sinking without exception. Efforts should be made to rescue the crew."

THE PRESIDENT: The Tribunal will adjourn.

[The Tribunal adjourned until 11 May 1946, at 1000 hours.]

ONE HUNDRED AND TWENTY-SEVENTH DAY

Saturday, 11 May 1946

Morning Session

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I continue to submit documents concerning naval warfare. My next document is printed on Page 149 of Document Book Number 3. It is a declaration of 26 September 1939 by the British First Lord of the Admiralty concerning the arming of the British merchant fleet. In this declaration he announces that within a short time the entire British merchant fleet will be armed. Then he speaks about the training of the crews, and in conclusion he thanks his predecessors for the care with which they prepared that work before the beginning of the war.

I submit Document Dönitz-60. Dönitz-60 is a large collection of documents concerning laws of naval warfare. It contains altogether 550 documents. In accordance with the request of the President, I have given special numbers to the later documents.

I come now to some documents which deal with the treatment of ships which acted suspiciously and were for that reason attacked by U-boats. The first document of this series is Dönitz-61, Page 150. It is a warning to neutral shipping against suspicious tactics. That warning was sent in a note to all neutral missions. At the end it points out that ships should avoid being mistaken for enemy warships or auxiliary cruisers, especially during the night. There is a warning against all suspicious tactics, for instance, changing course, use of wireless on sighting German naval forces, zigzagging, blacking-out, not stopping upon demand, and the acceptance of enemy escort.

That warning is repeated in Document Dönitz-62, which is on Page 153, a renewed note of 19 October 1939 to the neutral governments. Document 63 is an example of how a neutral government, namely the Danish Government, in accordance with the German notes, warned its merchant shipping against suspicious conduct. It is found on Page 154. I should like to remind you again that the first warning was given on 28 September.

My next Document, Dönitz-64, shows that on 2 October the order was issued to the submarines to attack blacked-out vessels in certain operational areas close to the British coast. That order is particularly significant in view of the cross-examination of yesterday

where the question was put as to whether an order of that kind had been issued at all, or whether that subject was transmitted to the commanders orally with instructions to falsify their logs. I read the order of 2 October 1939 on Page 155.

"Order by the SKL (Naval Operations Staff) to the Front:

"Inasmuch as it must be assumed that blacked-out vessels encountered on the English and French coasts are warships or auxiliary warships, full armed action is authorized against blacked-out vessels in the following waters."

An area around the British coast follows. The excerpt under it is taken from the War Diary of Commander of Submarines of the same date and shows the transmission of this order to the submarines.

The readiness of British merchant shipping to commit aggression against German submarines is motivated or furthered by the next document which I am going to show. It is numbered Dönitz-101 and is on Page 156. The old number was Dönitz-60, Mr. President. It is an announcement by the British Admiralty, which I will read:

"The British Admiralty circulated the following warning to the British merchant marine on 1 October:

"Within the last few days some German U-boats have been attacked by British merchant marine vessels. In this connection the German radio announces that the German U-boats have so far observed the rules of international law in warning the merchant marine vessels before attacking them.

"Now, however, Germany intends to retaliate by considering every British merchant marine vessel as a warship. While the first-mentioned fact is absolutely untrue, it may indicate an immediate change in the policy of German submarine warfare.

"Be prepared to meet it. Admiralty."

On Page 157 there is a second report of the same date. "The British Admiralty announces that German submarines are pursuing a new strategy. English boats are called upon to ram every German submarine."

The next document, Dönitz-65, contains orders issued as a result of the armament of, and armed resistance by, merchant vessels. I read the order of 4 October 1939, which was issued by the SKL to the Front.

"Immediate attack in any manner available is permitted submarines against enemy merchant vessels which are obviously armed or have been proclaimed as such on the basis of conclusive evidence received by the Naval Operations Staff. As far as circumstances permit, measures are to be taken to save the crew after every possibility of danger for the submarine

has been eliminated. Passenger ships not used to transport troops are still not to be attacked, even if armed."

The excerpt below shows the transmission of the order to the submarines. The experiences gained in the war up to that period are summarized in a document on Page 159, which is an excerpt from the Prosecution's Exhibit GB-196, "Standing War Order 171," by Commander of Submarines. I should only like to read from Paragraph 4, the first sentence:

"Tactics of Enemy Merchant Vessels. The following instructions have been issued for British shipping . . ."

THE PRESIDENT: What is the date of this document?

FLOTTENRICHTER KRANZBÜHLER: The document was issued before May 1940. I shall have to call on a witness to give the correct date, Mr. President; I assume it was in October 1939:

"The British Merchant Navy has received the following instructions:

"(a) To fight every German submarine with all the means at hand, to ram it or attack it with depth charges, if equipped to do so."

Further details follow.

Experiences drawn from the entire operations of the British Merchant Service are summarized in the next document in an order. It has been numbered Dönitz-66, and is on Page 161. I shall read the order, which is dated 17 October 1939:

"At 1500 hours the following order was issued to Commander of Submarines:

"Submarines are permitted immediate and full use of armed force against all merchant vessels recognizable with certainty as being of enemy nationality, as in every case attempts to ram or other forms of active resistance may be expected. Exceptions to be made as hitherto in the case of enemy passenger boats."

On Page 162 I have reproduced another part of Document Dönitz-62, which has been submitted already. It is a note to the neutral countries dated 22 October 1939, defining conduct on the part of ships which is, according to German opinion, incompatible with the peaceful character of a merchant ship. I read from the long paragraph, the second sentence:

"According to previous experiences such tactics may be expected with certainty from English and French boats, particularly when sailing in convoys: inadmissible use of wireless, sailing without lights, and in addition armed resistance and aggressive action."

In the next, the German Government warns neutral nations against the use of enemy ships for this reason. The German orders were issued in consequence of the experiences gained by our U-boats.

I have already submitted the next document, Dönitz-67, on Page 163 *et sequentes* and I only wish to explain on the basis of a report made by the British Admiralty, which is on Page 163, that the orders for merchant shipping were published in the *Handbook for the Defense of Merchant Ships* of January 1938—they were issued before the war.

Now I come to several documents dealing with the treatment of passenger ships. They have an important bearing on the *Athenia* case, since the *Athenia* was a passenger ship.

Document Dönitz-68 presents some evidence on the treatment of passenger ships. First comes an order issued on 4 September 1939, which I should like to read:

"On the Führer's orders, no hostile action is to be taken against passenger ships for the time being, even when in convoy."

The next excerpt from the same page contains reports on the use of passenger ships as troop transports.

I will now read an excerpt from the Directives for the Conduct of the War against Merchant Shipping, from October to the middle of November 1939, Page 3. As the fullest possible use was made of enemy passenger boats for the transport of troops, it was no longer possible to justify their being spared, at least when they were sailing in convoy. The following order was issued on 29 October: I will read the order, which is dated 29 October. It is at the bottom of the page:

"Passenger liners in enemy convoys may be subjected to immediate unrestricted armed attack by U-boats."

The next document, Dönitz-69, on Page 170, is to show that in November and December the German press issued a warning against the use of armed passenger ships by publishing lists of these ships.

The next document is Dönitz-70, on Page 171. It is an order issued on 7 November 1939 by the SKL to Commander of U-boats. I read the order:

"U-boats are permitted to attack immediately with all weapons at their command all passenger ships which can be identified with certainty as enemy ships and whose armament is detected or is already known."

That was about 6 weeks after permission to attack other armed ships had been given.

Dönitz-71 shows that the U-boats were also not permitted to attack blacked-out passenger ships until as late as 23 February 1940,

5 months—no, 4 months—after they were given permission to attack other ships.

Now I come to the Prosecution's Exhibit GB-224, which is reproduced on Pages 199 to 203 in Volume 4 of my document book. I should like to emphasize again that the object of this document was to incriminate Admiral Raeder in particular; and that it was described by the Prosecution as a cynical denial of international law. I should like to point out, to begin with, that according to the title it concerns deliberations by the Naval Operations Staff on the possibilities of intensifying economic warfare against England. I shall read a few paragraphs, or give a short account of them, to show that a very thorough investigation of international law was made. The first paragraph is headed "War Aims."

> "The Führer's proposal to restore a just and honorable peace and establish a new political order in Central Europe has been rejected. The enemy powers want war, with Germany's destruction as the goal. In the struggle in which Germany is now forced to defend her existence and rights, Germany must employ her weapons ruthlessly while fully respecting the rules of soldierly conduct in warfare."

Then there follows a paragraph in which it is stated that the enemy is also ruthless in carrying out his plans. On the next page, Page 200, there are a few sentences of basic importance which I should like to read. I read from the paragraph "Military Requirements" the fourth sentence:

> "It is still desirable to base military measures on the existing principle of international law; but military measures recognized as necessary must be taken if they seem likely to lead to decisive military successes, even if they are not admitted by international law. For that reason, the military weapon which effectively breaks the enemy's powers of resistance must on principle be given a legal base, even if new rules of naval warfare have to be created for the purpose.
>
> "After weighing political, military, and economic considerations with regard to the war as a whole, Supreme War Command must decide on the military procedure and legal rules of warfare to be applied."

Then there are a number of excerpts to show the way in which the Naval Operations Staff investigated the legal aspect of the situation; that is to say, the present legal aspect of the situation, the situation which would arise in the case of a siege of England or a blockade against England. The end, which is on Page 203, emphasizes the political character of the final decision. I shall read it:

"The decision as to the form to be taken by the intensification of economic warfare and the time fixed for changing over to the most intensified and therefore final form of naval warfare in this war is of far-reaching political importance. It can be made only by the Supreme War Command, which will weigh the military, political, and economic requirements against each other."

I should like to add that this document is dated 15 October 1939.

At the end of November 1939 the Naval Operations Staff took the consequent . . .

THE PRESIDENT: In our document it is 3 November. You said just now it was some date in October.

FLOTTENRICHTER KRANZBÜHLER: 15 October, Mr. President. It is a memorandum dated 15 October, which was submitted.

THE PRESIDENT: Well, I thought you were dealing with Exhibit GB-224. That is the one you have been reading just now.

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: That is headed on our Page 199, 3 November 1939.

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President. The 3rd of November is the date on which the memorandum was distributed to the High Command of the Armed Forces and to the Foreign Office. I have just been told that in the English text, above the word "Memorandum," the date is apparently not printed. In the original it says, right above the word "Memorandum," "Berlin, 15 October 1939."

THE PRESIDENT: Very well.

FLOTTENRICHTER KRANZBÜHLER: I have already submitted Document Dönitz-73, on Page 206, in which neutrals are warned against entry into the zone which corresponds to the American combat zone declared by President Roosevelt on 4 November.

The German point of view, that entry into this zone constitutes a danger to all neutrals by their own action, was also published in the press. Therefore, I submit Document Dönitz-103 on Page 210. It is an interview given by Admiral Raeder to a representative of the National Broadcasting Company, New York, on 4 March 1940. I should like to read a few sentences from that document. In the second paragraph Admiral Raeder points out the danger existing for neutral merchant ships if they act in a warlike manner and are consequently taken for enemy ships. The last sentence of that paragraph reads:

"The German standpoint may be concisely expressed by the formula: Whoever depends on the use of arms must be prepared for attack by arms."

I shall read the two last paragraphs:

"In discussing the possibility that there might be frequent differences of opinion, the Commander-in-Chief of the Navy mentioned President Roosevelt's order prohibiting American shipping in the dangerous zones around England. He said, 'This prohibition is the best proof against England's practice of forcing neutrals to sail through these zones without being able to guarantee their security. Germany can only advise all neutrals to imitate the policy of your President.'

"Question: 'Thus, according to this state of affairs, there is no protection for neutral shipping in the war-endangered zones?'

"Answer: 'Probably not, so long as England adheres to her methods. . . .'"

With the collapse of France, the entire U.S.A. combat zone was declared a German blockade area. That is shown by the next document, Dönitz-104, Page 212. I read from the middle of the long paragraph on that page:

"The entire sea area around England has thus become a theater of operations. Every ship sailing this zone runs the risk of being destroyed not only by mines but also by other combat means. . . ."

THE PRESIDENT: Dr. Kranzbühler, did you call that Exhibit Dönitz-60 or . . .

FLOTTENRICHTER KRANZBÜHLER: That was originally also one of the documents from Dönitz-60, Mr. President, to which I have now given a new number. It is now Dönitz-104.

THE PRESIDENT: Yes, thank you.

FLOTTENRICHTER KRANZBÜHLER: "Every ship sailing this zone runs the risk of being destroyed not only by mines but also by other combat means. For that reason the German Government issues a fresh and most urgent warning against sailing in the danger zone."

At the end of the note, the German Government refuses to assume any responsibility for damage or loss incurred in this area.

I produce as the next document, on Page 214, with the new Exhibit Number Dönitz-105, an official German statement made on the occasion of the announcement of the total blockade of 17 August 1940. I only want to mention it.

I now come to several documents dealing with the treatment of neutrals outside the declared danger zones. As the first document, I submit, on Page 226, an excerpt of the Prosecution's Exhibit GB-196. It is a standing war order from the Commander of U-boats which was also issued before May 1940. I read the first sentences:

"Not to be sunk are:

"(a) All ships readily recognized as neutral so long as they do not (1) move in any enemy convoy, (2) move into a declared danger zone."

The next Document, Dönitz-76, Page 227, shows the concern of the Naval Operations Staff that the neutrals should really be recognizable as such. I read the first sentences of the entry of 10 January 1942:

"In view of the further extension of the war, the Naval Operations Staff has asked the Foreign Office to point out again to the neutral seafaring nations, with the exception of Sweden, the necessity of carefully marking their ships in order that they shall not be mistaken for enemy ships."

The next Document, Dönitz-77, on Page 228, is an entry dated 24 June 1942, from the War Diary of the Flag Officer of U-boats:

"All commanders will again be given detailed instructions as to their conduct toward neutrals."

I have already submitted Dönitz-78—excuse me, it has not been submitted. Dönitz-78, Page 229, contains examples of the consideration which the Commander of U-boats showed to neutrals. The entry of 23 November 1942 shows that a submarine was ordered to leave one area solely because there was a great deal of neutral traffic in that area. The second entry of December 1942 specifies that Portuguese naval tankers had to be treated in accordance with directives, in other words, allowed to proceed.

On Page 230 there is a document which I have already mentioned. It contains an account of court-martial proceedings taken against a commanding officer who had torpedoed a neutral by mistake.

The next document, Dönitz-79, on Page 231, is an order decreeing the manner of treating neutrals which remained in force up to the end of the war. I do not think I have to read it. It again stresses the necessity of neutral ships being easily recognizable as such and refers to shipping agreements which have been made with a number of countries, such as Spain, Portugal, Sweden, and Switzerland.

THE PRESIDENT: What is the correct date of it? You said . . .

FLOTTENRICHTER KRANZBÜHLER: August 1944, Mr. President.

THE PRESIDENT: That is on the original . . .

FLOTTENRICHTER KRANZBÜHLER: The original date was 1 April 1943. The order was revised on 1 August 1944 on the basis of the revisions necessitated by the shipping agreements.

So far I have dealt with the general principles which have been attacked by the Prosecution's Exhibit GB-191 and GB-224. Now I should like to submit several documents on individual points contained in the Prosecution's Exhibit GB-191. Mention is made there of a speech by Adolf Hitler ending with the words:

"Every ship, with or without escort, which comes within range of our torpedo tubes will be torpedoed."

I now wish to present as Dönitz-80, on Page 232, an excerpt from that speech. It shows that in that context the Führer's statement only applied to ships carrying war materials to England.

I now come to two examples mentioned in GB-191 as characteristic examples of illegal German naval warfare. The first is the case of the Danish steamer *Vendia*. The Prosecution's document says:

"On 30 September 1939 the first sinking of a neutral ship by a submarine took place without a warning signal having been given. On that occasion some people lost their lives. The ship was the Danish steamer *Vendia*."

With reference to this I am submitting Dönitz-83, on Page 235. That is the War Log of Submarine U-3, which sank the *Vendia*. I should like to read parts of it on account of its importance. I begin with the second sentence:

"The steamer turns away gradually and increases speed. The boat comes up only very slowly. Obvious attempt to escape. The steamer is clearly recognizable as the Danish steamer *Vendia*. Boat reduces speed and uncovers her machine-gun. Several warning shots are fired across the steamer's bow. Thereupon the steamer stops very slowly; nothing more happens for a while. Then some more shots are fired. The *Vendia* lies into the wind.

"For 10 minutes nothing is visible on deck to remove suspicion of possible intended resistance; at 1124 hours I suddenly see bow waves and screw movements. The steamer swings sharply round toward the boat. The officer on watch and the first mate agree with my view that this is an attempt at ramming. For this reason I turn in the same angle as the steamer. A torpedo is fired 30 seconds later; point of aim, bow; point of impact, extreme rear of stern. The stern is torn off and goes down. The front part remains afloat.

"By risking the loss of our own crew and boat (heavy sea and numerous floating pieces of wreckage) six men of the

Danish crew are rescued, among them the captain and helmsman. No further survivors can be seen. In the meantime the Danish steamer *Swawa* approaches and is stopped. She is requested to send her papers across in a boat. She is carrying a mixed cargo from Amsterdam to Copenhagen. The six persons rescued are transferred to the steamer for repatriation."

I read the second to the last sentence on the next page:

"After the crew of the steamer had been handed over, it was learned that the engineer artificer of the steamer had told the stoker Blank that the captain had intended to ram the submarine."

The document on Page 237, an excerpt from the Prosecution's Exhibit GB-82, shows that the *Vendia* case formed the subject of a protest by the German Government to the Danish Government.

I shall deal now with the sinking of the *City of Benares* on 18 September 1940. In this connection I should like first to read several sentences from the Prosecution's document, because in my opinion it is characteristic of the probative value of the entire Exhibit GB-191. I read from the British Document Book, Page 23, starting at the passage where the Prosecution stopped reading. The Tribunal will remember that the *City of Benares* had children on board. The Foreign Office report says here:

"The captain of the U-boat presumably did not know that there were children on board the *City of Benares* when he fired the torpedoes. Perhaps he did not even know the name of the ship, although there the evidence suggests strongly that he had been dogging her for several hours before torpedoing her. He must have known, however, that this was a large merchant ship, probably with civilian passengers on board, and certainly with a crew of merchant seamen. He knew the state of the weather, and he knew that they were six hundred miles from land and yet he followed them outside the blockade area and deliberately abstained from firing his torpedo until after nightfall when the chances of rescue would be enormously reduced."

The next document I submit is Dönitz-84, Page 238, the War Log of U-boat 48, which sank the *City of Benares*. I read the entry of 17 September 1940:

"Time 1002. Convoy sighted. Course about 240 degrees, speed 7 nautical miles. Contact maintained, since underwater attack is no longer possible because of the heavy swell. No escort can be seen with the convoy."

I will summarize the entry of 18 September 1940.

It describes the firing of a torpedo on a ship belonging to that convoy—the *City of Benares.*

A few minutes later, at 0007 hours, the submarine attacked a second ship in the convoy, the British steamer *Marina.* Both ships sent wireless messages. Twenty minutes later the submarine again had an artillery combat with a tanker from the convoy. That is the true story of the *City of Benares.*

I reproduce the Prosecution's Exhibit GB-192 again on Page 240. It concerns the sinking of the *Sheaf Mead.* In this connection I should like to point out that that ship was heavily armed and that it probably was no merchant vessel but a submarine trap. The Prosecution's Exhibit GB-195, which was dealt with in yesterday's hearing, contains an order issued by the Führer in July 1941 concerning attacks on United States merchant vessels in the blockade zone which had been declared around England. On the basis of this document, the Prosecution charges Dönitz with conducting a cynical and opportunistic warfare against neutrals.

My next document is Dönitz-86, Page 243. It shows the efforts which were made to avoid a conflict with the United States. I read the entry, dated 5 March 1940, from the War Diary of the Naval Operations Staff:

> "With reference to the conduct of economic warfare, orders are given to the Naval Forces that U.S. ships are not to be stopped, seized, or sunk. The reason is the assurance given by the Commander-in-Chief to the American Naval Attaché, whom he received on 20 February, that German submarines had orders not to stop any American ships whatsoever. All possibility of difficulties arising between the U.S.A. and Germany as a result of economic warfare are thereby to be eliminated from the start."

This order means, therefore, that prize law measures were renounced.

The next document, Dönitz-87, Page 244, shows the practical recognition of the American zone of neutrality. It reads:

> "4 April 1941. The following WIT message is directed to all ships at sea:
>
> "American neutrality zone from now on to be observed south of 20° North only at a distance of 300 nautical miles from the coast. For reasons of foreign policy, the hitherto existing limitation will for the time being continue to be observed north of the above-mentioned line."

That means full recognition of the neutral zone.

The next document, Dönitz-88, shows President Roosevelt's attitude to the question of neutrality toward Germany in that war. It is an excerpt from the speech of 11 September 1941 and is well known:

> "Hitler knows that he must win the mastery of the seas if he wants to win the mastery of the world. He knows that he must first tear down the bridge of ships which we are building over the Atlantic and over which we constantly transport the war material that will help, in the end, to destroy him and all his works. He has to destroy our patrols on the sea and in the air."

I should like to say a few words about the view also expressed in Exhibit GB-191, namely, that the crews of enemy merchant ships were civilians and noncombatants. On Page 254 of the document book I have reproduced part of Document Dönitz-67, which I have already submitted. It is an excerpt from the confidential Admiralty Fleet Orders and deals with gunnery training for the civilian crews of merchant ships. I only wish to refer to the first page of these orders which say that, as a general rule, there should be only one navy man at a gun, all the rest being taken from the crew of the ship. I read from the paragraph headed "Training," Section (d):

> "In addition to the gunlayer and the men specially trained for serving guns, five to seven men more—depending on the size of the gun—are needed to complete the gun crew and to bring ammunition from the magazine."

This is followed by regulations for training in port and gunnery drill for the crews.

The next document, re-numbered Dönitz-106, is a circular decree issued by the French Minister for the Merchant Marine on 11 November 1939. It deals with the creation of a special badge for men serving on merchant ships who are liable for military service. That is on Page 256. I should like to point out that this decree was signed by the head of the Military Cabinet, a rear admiral. The character of the order is demonstrated by the second to the last paragraph:

> "This armband may only be worn in France or in the French colonies. In no case may men issued the armband wear it in foreign waters."

I come now to several documents dealing with the question of the rescue of survivors. These documents can be found in Document Books 1 and 2.

THE PRESIDENT: Dr. Kranzbühler, do you not think it would be sufficient if you were to refer to these documents and give us the numbers without reading from them? They are all dealing, as you say, with rescue.

FLOTTENRICHTER KRANZBÜHLER: I believe I can do this with most of them. On Page 9 there is reproduced the Hague Convention regarding the application of the Geneva Convention to naval warfare. Page 10 is Document Dönitz-8, the order of 4 October 1939 concerning the sinking of armed merchantmen. It contains the order already read, namely, that rescues should be effected wherever possible without endangering their own ship.

Dönitz-9, Page 12, gives examples of exaggerated rescue measures by German submarines which even let enemy ships pass without attack while so engaged. Dönitz-10 deals with the same subject and gives a further example.

The collection of statements made by commanding officers in Dönitz-13 can be found on Pages 19 to 26. I should like to deal with it along with War Order 154, which is the Prosecution's Exhibit GB-196. These statements contain numerous examples, taken from all the war years, of rescue measures on the part of German submarines. One of these statements is supplemented by photographs—Page 21—which are included in the original. The facts stated in these statements are confirmed by Document Dönitz-14, Page 27, where there is a report on rescue measures in the war diary of a submarine; and at the end we find the sentence: "Taking British airmen on board is sanctioned." It is signed by the Commander of U-boats.

The next document, Dönitz-15, is again an excerpt from the war diary, giving an example of rescue measures after a battle with a convoy on 21 October 1941. It is on Page 28. The next two documents concern the *Laconia* order. The Tribunal has permitted me to use Standing War Orders 511 and 513 in cross-examining Möhle. They deal with the capture of captains, chief engineers, and air crews. I submit them as Dönitz-24 and 25, and they can be found on Pages 46 and 47. I should like to point out that both orders explicitly state that capture should only be effected as far as is possible without endangering the boats.

Document Dönitz-24 explains that the British Admiralty, on their part, had issued orders to prevent the capture of British captains by German submarines. The next excerpt, on Page 48, cites an example showing that this British order was carried out and that a U-boat searched in vain among the lifeboats for the captain.

THE PRESIDENT: Dr. Kranzbühler, could you inform the Tribunal what Paragraph 2 on Page 46 refers to and means?

FLOTTENRICHTER KRANZBÜHLER: The paragraph refers to Standing War Order Number 101, that is, the order specifying which neutral ships can be sunk. That is, of course, in the blockade area.

THE PRESIDENT: Would it mean that those officers have to be sunk with the ship, or what?

FLOTTENRICHTER KRANZBÜHLER: No, Mr. President. That means that captains and ships' officers of neutral ships might be left in the lifeboats and need not be taken aboard the submarine from the lifeboats. The fact that it was actually much safer in the lifeboats than on the submarine is seen from the English order instructing captains to remain in the lifeboats and hide from the U-boats.

THE PRESIDENT: What if they do not have lifeboats?

FLOTTENRICHTER KRANZBÜHLER: I believe, Mr. President, that that case has not been ruled on here. I know of no case where a ship did not have lifeboats, especially in 1943, in which year the order originated. Every ship was provided not only with lifeboats but also with automatically inflating rafts.

Figure 2 refers only to the question of capture of neutral captains. May I continue, please?

THE PRESIDENT: Yes, you may.

FLOTTENRICHTER KRANZBÜHLER: A number of instances showing that captains were rescued after these orders were issued are quoted in the statements by commanders reproduced on Pages 22, 25, and 26, under Exhibit Number Dönitz-13.

I now come to the case of Submarine U-386, which figures very largely in Korvettenkapitän Möhle's statement. The Tribunal will remember that this case was the decisive reason for the way in which Möhle interpreted the *Laconia* order. With reference to this case, I submit Exhibit Number Dönitz-26, the affidavit made by Captain Witt. I should like to read a few paragraphs from that.

THE PRESIDENT: What page?

FLOTTENRICHTER KRANZBÜHLER: On Page 50, Mr. President.

> "In November 1943, in the course of my official duties as a member of the staff of Commander of U-boats, I had to interview Lieutenant Albrecht, commander of U-boat U-386, on his experiences during the action which had just terminated. Albrecht reported to me that in the latitude of Cape Finisterre he had sighted in daylight a rubber boat with shipwrecked British airmen in the Bay of Biscay. He did not take any steps to rescue them because he was on his way to a convoy in process of formation. He could only reach his position by continuing without a stop. Besides he was afraid . . ."

THE PRESIDENT: Dr. Kranzbühler, is it necessary to go into the details of each particular case? I mean, they all depend upon their own particular circumstances. You need not read the documents very carefully. It is not necessary at this stage of the case.

FLOTTENRICHTER KRANZBÜHLER: Very well, Mr. President, I shall only report.

The affidavit states briefly that the commander has been informed that he should have brought the airmen back. That is, in other words, the opposite of what Möhle has said in this courtroom. The correctness of Captain Witt's statements is confirmed by the next document, Dönitz-27, which is the U-boat's war log and contains the comments of the Commander of U-boats expressing disapproval of the fact that the Englishmen floating on the raft were not taken aboard.

The fact that Admiral Dönitz' attitude toward rescues was not based on cruelty but on military expediency is shown by Page 53 of the following document, Dönitz-28. He is considering the rescue of our own personnel and comes to the conclusion that military considerations may forbid such a rescue. The following Document Dönitz-29 deals with the statement made by witness Heisig. It is on Page 54 and the following. It begins with an affidavit made by the Adjutant, Kapitänleutnant Fuhrmann, who describes the general ideas on which Admiral Dönitz' talks were based. At the end he stresses the fact that he was never, in connection with Admiral Dönitz' pronouncements, approached by young officers, who expressed any doubts as to the treatment of shipwrecked persons.

On Page 56 there is a statement made by Lieutenant Kress, who was present at the same lecture as Heisig. He says that neither directly nor indirectly did Admiral Dönitz order the survivors to be killed.

That is confirmed by Lieutenant Steinhoff's statement on Page 59. The considerations which weighed with the Naval Operations Staff at that time in the question of fighting the crews are illustrated by the following document, Dönitz-30, which is reproduced on Pages 60 and 61. Here again, no mention is made of the killing of survivors. It is the record of a conference with the Führer on 28 September 1942, which was attended by Admiral Raeder and Admiral Dönitz.

The Tribunal will remember Exhibit GB-200 which describes rescue ships as desirable targets. The same document states that they have the significance of submarine traps. For that reason I have reproduced on Page 63 Standing War Order Number 173, dated 2 May 1940. That order states that, in accordance with instructions from the British Admiralty, U-boat traps are employed in convoys. Document Dönitz-34, on Page 67 of Document Book 2, shows that the treatment of rescue ships has nothing to do with the sanctity of hospital ships. It is the last of the Standing Orders referring to hospital ships and is dated 1 August 1944. It begins with the words, "Hospital ships must not be sunk."

My next document, Dönitz-35, is meant to show that the Naval Operations Staff actually went beyond the provisions of international law in regard to the sanctity of hospital ships, for, as the entry of 17 July 1941 proves, the Soviet Government on its part rejected the hospital ship agreement, basing its action on violations of international law committed by Germany on land. According to Article 18 of the hospital ship agreement, this meant that the agreement was no longer binding on any of the signatories.

In Document Dönitz-36, Pages 69 and following, I submit the only known instance of a U-boat commander's actually firing on means of rescue. This is the interrogation of Kapitänleutnant Eck, carried out on 21 November 1945 by order of this Tribunal. That was 10 days before he was shot.

According to the wish of the Tribunal, I shall confine myself to a summary.

After sinking the Greek steamer *Peleus,* Eck tried to sink the lifeboats and wreckage by means of gunfire. The reason he gave was that he wanted in this way to get rid of the debris and avoid being detected by enemy aircraft. He states that he had the *Laconia* order aboard, but that this order had no influence whatsoever upon his decision. In fact, he had not even thought of it. He had received his instructions from Möhle but had heard nothing about the killing of survivors which is alleged to have been desired; and he knew nothing about the instance of U-386. At the end of his examination, Eck states that he expected his action to be approved by Admiral Dönitz. A further reference was made in cross-examination yesterday to the question of whether Admiral Dönitz . . .

THE PRESIDENT: Dr. Kranzbühler, we will adjourn now for a few minutes—only for a short time.

FLOTTENRICHTER KRANZBÜHLER: Very well.

[A recess was taken.]

THE PRESIDENT: Dr. Kranzbühler, the Tribunal, as you know, was going to deal with the applications for documents and witnesses, but if you could finish your documents in a short time, they would like to go on with that and get them finished, if you can.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I believe that even at my present speed, I shall need about an hour. I should like to ask you, therefore, for permission to continue on Monday morning.

THE PRESIDENT: Well, Dr. Kranzbühler, if you think it will be as long as that, of course we must put it off to Monday morning, but

the Tribunal does hope that you would not take anything like so long as that, because going in detail into these documents does not really help the Tribunal. They have all got to be gone into again in great detail, both in your speeches and in further consideration by the Tribunal.

FLOTTENRICHTER KRANZBÜHLER: I shall confine myself to making clear the connections, Mr. President, but in spite of that, I think it would be better if I did so on Monday morning.

THE PRESIDENT: Very well, yes. Then the Tribunal will now deal with the applications. Yes, Sir David.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases, the first application is on behalf of the Defendant Von Schirach, who asked for one Hans Marsalek as a witness for cross-examination. The Prosecution have already introduced an affidavit from this man, and they have no objection to him being called for cross-examination.

My Lord, the second application on behalf of the Defendant Von Schirach is in respect of one Kaufmann. The Defense desires to administer interrogatories to Kaufmann in lieu of calling Kaufmann, who has already been allowed as a witness. There is no objection to that.

My Lord, the next matter is an application by Dr. Seidl on behalf of the Defendant Hess, and it is a request for five documents relating to the German-Soviet agreements in August and September 1939. And it is also a request for the calling of Ambassador Gaus as a witness in connection with the above. But the position with regard to previous applications is somewhat lengthy, and without going into details, I tell the Tribunal that this matter has already been before them on six occasions. I have the details if the Tribunal would like them.

THE PRESIDENT: No, because the Tribunal made an order, did they not, that these documents were to be translated?

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

THE PRESIDENT: And that they would then be considered by the Tribunal?

SIR DAVID MAXWELL-FYFE: That is so, My Lord. The Tribunal made an order for them to be translated on 25 March and, My Lord, if I may just remind Your Lordship of the bare facts, on 28 March Fräulein Blank, the private secretary of the Defendant Von Ribbentrop, was asked about the agreement. Your Lordship may remember that my friend General Rudenko objected, but the Tribunal ruled that the questions were admissible, and the witness said she knew of the existence of the secret pact, but gave no details.

Then, on 1 April, in the course of Dr. Seidl's cross-examination of the Defendant Von Ribbentrop, the Gaus affidavit was read, and

on 3 April, Dr. Seidl applied for Hilger and Weizsäcker to be called as witnesses on this point, and on 15 April Dr. Seidl applied for Ambassador Gaus to be called.

Now, My Lord, it was discussed before the Tribunal on 17 April, when I said that in view of the Tribunal's previous ruling I could not contest the question of the agreement, but I objected to the witnesses. General Rudenko, I think, stated that he had submitted written objections, and the Tribunal said they would consider the matter. The position today appears to be, taking the five documents, that the affidavit of Dr. Gaus is already in evidence. My Lord, that is the first affidavit. But the second affidavit of Dr. Gaus is not in evidence. With regard to the Non-Aggression Pact between Germany and the Soviet Union, that is already in evidence. As to the Secret Supplementary Protocol appended to the Non-Aggression Pact between Germany and the Soviet Union, the substance is already in evidence. It was given in the Gaus affidavit.

Then, My Lord, we have the German-Soviet Frontier and Friendship Pact of 28 September 1939, and the Secret Supplementary Protocol to that pact. The Prosecution submit that these documents have no relevance to the defense of the Defendant Hess, and they cannot see any reason for them being wanted. If necessary, my Soviet colleague can deal further with the matter, but that is the general position. And we also submit that the second affidavit of Ambassador Gaus is unnecessary in view of his previous affidavit, and without stating them again, I refer to and repeat my objections to witnesses to the discussions preceding the conclusion of the agreement. It is submitted that this is really an irrelevant matter, and unnecessary to occupy the time of the Tribunal regarding it. My Lord, I do not know whether it is convenient . . .

THE PRESIDENT: Sir David, the Tribunal, as I have said, is going to consider this matter. They have not yet had an opportunity to consider these documents, but I should like to ask you whether there is any reason why Ambassador Gaus should be called as a witness.

SIR DAVID MAXWELL-FYFE: None at all, My Lord.

THE PRESIDENT: He has already stated the substance of these documents, as has the Defendant Ribbentrop, and if the documents are now produced and supposing that the Tribunal took the view that they ought to be admitted, it would be entirely irrelevant to call Gaus as a witness.

SIR DAVID MAXWELL-FYFE: In my submission that is so, My Lord.

THE PRESIDENT: Well, I think the Tribunal had better consider these documents, as they had stated in their order they were going to do when the documents had been produced.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases.

Now, My Lord, the next application is on behalf of the Defendant Funk, and he requests permission to read the affidavit of the witness Kallus. The permission was previously granted to the Defendant Funk to submit an interrogatory to Kallus, which has been done, and the interrogatory has already been introduced in evidence. The affidavit now in question has been received and supplements the interrogatory, and the Prosecution have no objection.

The next application is on behalf of the Defendant Streicher, and he desires to call the witness Gassner as a witness, and he is desired to speak as to the *Stürmer* and the size of the circulation and the profits. The Prosecution submit that it is unnecessary to call a witness as to the form of the *Stürmer* after 1933. A representative number of copies of the newspaper are before the Tribunal and the form of the newspaper can be seen from them.

On the second point, both the Defendant Streicher and the witness Hiemer have given evidence as to the *Stürmer's* circulation, and it is respectfully submitted that the takings of the *Stürmer* and the use to which they were put are irrelevant.

Then, My Lord, the next application, on behalf of the Defendant Sauckel, is for one Biedermann as a witness, instead of a witness allowed previously who cannot be found. The Prosecution have no objection to that, and they have no objection to the documents that are asked for, so with the approval of the Tribunal I shall not go through them in detail.

THE PRESIDENT: Sir David, we should like to know when you think the most appropriate time would be to hear the evidence on behalf of those defendants whose cases have already been presented, whether to hear it at the end of all the evidence or to hear it earlier?

SIR DAVID MAXWELL-FYFE: My Lord, I should have thought that it was better to hear it earlier if the Tribunal could put aside a Saturday morning for it, or something of that kind, before the cases of the various defendants have gone too far into the background.

THE PRESIDENT: We will consider that and let you know.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases. Now, My Lord, the next application is in behalf of the Defendant Seyss-Inquart, and he asks for an interrogatory to be submitted to Dr. Stuckart to complement the testimony of the witness Lammers. The Prosecution have no objection to such an interrogatory. They reserve the right, or they ask the Tribunal to let them reserve the

right, to put in a cross-interrogatory. The Defendant Frick asks for Dr. Konrad as a witness on the question of Church persecution, and the Prosecution suggest that an interrogatory would be sufficient on this point. I think there is a little confusion here; I think that what is desired is an affidavit. The original application says:

> "Contrary to the charge to the effect that the defendant participated in the persecution of the Churches, an affidavit by the witness is to establish that Frick strongly defended Church interests."

So the only question is between an affidavit and interrogatory, not between an oral witness and an interrogatory. Then, if I might leave the next one, the application on behalf of the Defendant Göring, to my friend Colonel Pokrovsky, who is going to deal with that. I pass to the applications of the Defendants Hess and Frank. That is Dr. Seidl's application; and if I might just read what is stated in the Secretary General's note, it is official information from the ministry of war of the United States of America, or another ministerial service official of the Office of Strategic Services. It is stated that such a report is desired to show that the witness Gisevius had perjured himself on the witness stand and that they desire to show this to attack his credibility. It is alleged that the perjuring consists of his denial under cross-examination that he acted on behalf of foreign powers and his denial of receiving any favors from any power at war with Germany, which is supposed to be at variance with his statement that he had friendly and political relations with the American Secret Service and with some subsequently published reports. Confirmation of these two factors, alleged to be at variance with his prior statements, is sought by requesting official statement; and they ask for United States Secretary of War, Mr. Patterson, as a witness for the essential points, in case the Tribunal does not consider an official report admissible or sufficient or the United States ministry of war refuses the information.

Now, My Lord, I deal with this matter simply as a question of jurisprudence on which I submit that the English view is a sound one and should be followed by this Tribunal. The law of England, as I understand it, is that when you cross-examine a witness to credit, you are bound by his answers. There is only one exception to that which, in my recollection, is contained in a note in Roscoe's *Criminal Evidence,* that when you have cross-examined a witness to credit, you may call a witness to say that, knowing the general reputation of the witness who has been cross-examined to credit, on that general reputation, and only on that general reputation, the witness would not believe him on it. That is the only exception that I know in English Law.

THE PRESIDENT: And, of course, if he is cross-examined as to a crime or a misdemeanor, he may be contradicted.

SIR DAVID MAXWELL-FYFE: Certainly; Your Lordship is quite right. I should have put that as an exception; that if he is cross-examined as to a specific conviction, then the conviction may be proved. I am very grateful to Your Lordship. But, My Lord, what is not permissible in English jurisprudence is that when a witness has been cross-examined to credit on particular facts other than a conviction by the State, evidence may be adduced as to these particular facts. I should submit that the principle which I am sure obtains in all systems of jurisprudence, *interest rei publicae ut sit finis litium* must apply and support that condition. Now, I will put it in English—I am sorry. "It is in the interest of the community that there should be an end of the legal proceedings."

My Lord, if one did not apply the limit which English jurisprudence has applied, one would then call evidence to attack the credit of witnesses for the Prosecution. The Prosecution would then render a rebuttal and call evidence to attack the credit of each of these witnesses who had attacked the credit of the Prosecution's witnesses and there would never be an end to legal proceedings at all. My Lord, on that point which is a general point—and I do not mean to be academic; it is a point of practical importance for preserving some decent limit to legal proceedings—I would submit that this application should be refused. My Lord, I think that covers all the points except the question of the Defendant Göring's application with which my friend Colonel Pokrovsky will deal.

COL. POKROVSKY: The Defendant Göring is applying, My Lord, for the calling of supplementary witnesses in connection with the Katyn Forest shootings to clarify the matter from the point of view of the Wehrmacht. That is to say he intends to prove that German Armed Forces were not in any way concerned with this Hitler provocation. The Prosecution of the Soviet Union categorically protests.

THE PRESIDENT: Colonel Pokrovsky, we have this matter fully in our mind as we have already had to consider it; therefore, it is not necessary for you to deal with it in detail, for I understand that these are new witnesses who have not before been applied for.

COL. POKROVSKY: I had in mind the fact that the new witnesses have been called and I would like to inform the Tribunal of our exact point of view with regard to the calling of the new witnesses, without going into detail about the Katyn Forest incident. The Soviet Prosecution, from the very beginning, considered the Katyn Forest incident as common knowledge. The Tribunal can see, by the limited space allotted to this crime in the Indictment and by the fact that we found it possible to limit ourselves to reading into

the record only a few short excerpts from the report of the Commission, that we consider this episode to be only an episode. If the question mentioned by Sir David should be raised, that is, the fact that the Tribunal may have doubts about the credibility of certain witnesses or certain documents accepted as evidence—then, once again, we would be forced to present new evidence in order to discredit the new material again presented by the Defense.

Thus, if the Tribunal considers it necessary to admit two new witnesses relative to the Katyn Forest shootings, the Soviet Prosecution will find itself obliged to call about ten more new witnesses who are experts and specialists, and to present to the Tribunal new evidence put at our disposal and which we have recently received —new documents.

Furthermore, we shall have to return to the question of reading into the record all of the documents of the Special Commission, excerpts from which were read before the Tribunal. We think that it will greatly delay the proceedings, and it will not be a matter of hours but of days. So far as we are concerned, there is no necessity for doing this, and I think that this request should be refused, since there is absolutely no basis or reason for it. That, My Lord, is what I wanted to say in regard to the Defendant Göring's application.

I would also like to add a few words to what Sir David said in regard to Dr. Seidl's application. I will not go into all our motives. We certainly support Sir David fully, and we consider that Dr. Seidl's applications should be refused. But I want to report to you that this morning I signed a document which is being sent to you, Your Honor, and which contains a full and detailed statement of our motives and considerations in regard to this question; and this document is presented to the Tribunal. Therefore, without taking up your time, I have found another way of informing the Tribunal about our position.

THE PRESIDENT: Now, it is not necessary, I think, to ask counsel for the Defendant Schirach to address the Tribunal, because there is no objection to those two applications with reference to the witness Marsalek and the interrogatory of Kaufmann.

With reference to the Hess matter, the Tribunal will consider that. They are going to consider it as they said they would in their previous order.

With reference to the Defendant Funk, there is no objection to the affidavit of Kallus, and so unless counsel for Funk wants to address us upon it, we need not bother about that.

With reference to Streicher, there is an objection to Gassner as a witness, so perhaps the counsel for Streicher had better say anything that he wishes to say.

[There was no response.]

Well, the Tribunal will consider that, then.

As to Sauckel there has been no objection. As to Seyss-Inquart, an interrogatory—there is no objection there.

As to the Defendant Frick, Sir David suggested an interrogatory. It was not quite clear whether the application meant that. Is counsel for the Defendant Frick here or not?

[There was no response.]

Well, we will consider that. And with reference to Göring, the Tribunal will consider the applications for the Defendant Göring

And with reference to Hess and Frank, as to Gisevius' evidence—Dr. Seidl, do you wish to say anything about that?

DR. ALFRED SEIDL (Counsel for Defendants Hess and Frank): Mr. President, the application regarding the obtaining of official information from the minister of war was made for the sole purpose of obtaining evidence as to the credibility of the witness Gisevius. Afterwards I made another application to examine Secretary of War Patterson by means of an interrogatory dealing with the same subject. On the following day I made an application to examine the Chief of the O.S.S., General Donovan, also by means of an interrogatory. I think that this new application is in the hands of the Tribunal.

I have made this further application only because the first-named witness, Patterson, was minister of war for only a comparatively short period, and because it seemed helpful to have the chief of that organization himself as an additional witness. As a reason for these applications, I refer to my written statement of 1 May this year, which I have also submitted as Appendix 1 of the form. I further refer to Appendix 2, a report by Associated Press on this incident. I should like to reply very briefly to Sir David Maxwell-Fyfe's statement here.

The Tribunal does not appear to be bound by any particular rules in dealing with the question of additional witnesses in connection with the credibility of other witnesses. Neither the Charter of the International Military Tribunal nor the regulations governing its procedure contain any definite rules. In my opinion, it is rather left exclusively to the free judgment of the Tribunal whether such additional evidence referring to the credibility of a witness should be admitted or not, and in what circumstances. In German criminal procedure such evidence is admissible without question.

However, since the Tribunal in setting up this procedure is not bound by any rules of procedure, I see no reason why the decision should be based on any of the customary Anglo-American legal procedure, since the Charter is not based on either the

Anglo-American legal procedure or the continental European legal procedure. This Tribunal and its rules of procedure are entirely independent and give complete freedom to the judgment of the court.

That is all I wanted to say in that connection.

THE PRESIDENT: One moment, Dr. Seidl. Do the questions which you wish to put with reference to the witness Gisevius relate solely to credit?

DR. SEIDL: In my written application I have already said that as far as I am concerned, it is not a question of whether in certain circumstances the witness Gisevius was guilty of an action which from the German legal standpoint might constitute the crime of treason. I only put that question in connection with the examination of the credibility of the witness before the Tribunal.

THE PRESIDENT: That is what I thought. Now, one other question I wanted to ask you. Are these pacts or agreements, which you say existed between the Soviet Republics and Germany—are they published in print? Have all the documents which you wish to use been typewritten or mimeographed and circulated to the Tribunal?

DR. SEIDL: Mr. President, on 13 November of last year, I gave six copies of those five documents to the Secretary General, and I also gave a corresponding number of documents to the Prosecution. All these documents are typewritten, or, rather, they are mimeographed.

THE PRESIDENT: Yes.

DR. SEIDL: Perhaps I might add one point. On an earlier occasion the Tribunal admitted as evidence an affidavit made by Ambassador Gaus. This first affidavit is a statement of the contents of these secret agreements. It is my opinion . . .

THE PRESIDENT: I know that, yes.

DR. SEIDL: . . . that if we have the agreements, we should refer to the agreements themselves and not merely to a summary. If the Tribunal so desires, and considers it necessary, then I should be prepared, now or at some later date, to discuss the relevancy of these agreements.

I have noted down eight points from which only these agreements appear relevant as evidence, and perhaps I may point out that these additional agreements . . .

THE PRESIDENT: The Tribunal has already ordered that these documents should be submitted, and they will then consider them and that is what they propose to do; so it is not necessary to go into them in detail. We will consider the matter.

DR. SAUTER: Mr. President, during the examination of Defendant Funk, a film was shown here on the screen and an affidavit by a witness—Puhl—was read—Emil Puhl, the Vice President of the Reichsbank. At that time, following an application of mine, the Tribunal decided that this witness, Emil Puhl, should be called here for examination. Now I should like to ask you to amend your decision in one respect. I think it would be useful to show to the Witness Puhl the film which you saw on this screen a few days ago, so that he may state whether in fact the steel vaults of the Reichsbank looked as they were shown in this film.

I should like to ask, therefore, Mr. President, that you order this short film which we were shown twice recently to be shown also to the witness Puhl before his examination. It is, of course, not necessary that this should be done during a session of the Tribunal; it can be done in the presence of the prosecutor and myself, outside this courtroom. I have various questions to put to the witness Puhl, and for that it is necessary that he should first see this film. I wanted to make this application today so that there may be no delay when the witness Puhl is examined.

THE PRESIDENT: Does the witness Puhl know the vaults in Frankfurt which were photographed?

DR. SAUTER: Yes.

THE PRESIDENT: He was a director in Berlin, was he not?

DR. SAUTER: Yes; but I assume, Mr. President, that the witness Puhl, who was the managing Vice President, would also know the steel vaults in Frankfurt. Apart from that, I believe that these vaults in the various branches of the Reichsbank were all built on the same pattern, and were also treated in the same way in practice. He will be able, also, to state whether the method of safe-keeping shown in the film was the type actually used by the Reichsbank in looking after deposits.

THE PRESIDENT: Has the Prosecution anything to say about this?

MR. RALPH G. ALBRECHT (Associate Trial Counsel for the United States): If Your Honor please, I think, as it is a document belonging to the case, we would be very glad to show them to the witness before he is cross-examined by Dr. Sauter.

THE PRESIDENT: Yes. And perhaps the most convenient way would be, as Dr. Sauter suggests, that he should be shown the film in some room in this court; not actually in this room, but in another room.

MR. ALBRECHT: Yes; we can do so in the presence of the Prosecution.

THE PRESIDENT: Then you can arrange that between yourself and Dr. Sauter?

MR. ALBRECHT: Very well, Sir.

DR. SAUTER: Thank you very much indeed.

THE PRESIDENT: Dr. Sauter, has any time been arranged for the calling of Puhl?

DR. SAUTER: No; nothing has been arranged yet. As far as I have heard, the witness is already here. I do not know when he is to be heard. I shall leave that entirely to the Prosecution.

THE PRESIDENT: What would be the most convenient time?

SIR DAVID MAXWELL-FYFE: My Lord, Mr. Dalton suggests to me, at the close of the case of the Defendant Dönitz.

THE PRESIDENT: Would that be convenient? Would it not be better to put it after the Defendant Raeder—I do not know, they are rather connected cases?

SIR DAVID MAXWELL-FYFE: If the Tribunal would prefer that, we could make it after Raeder.

THE PRESIDENT: I do not know whether Dr. Kranzbühler and Dr. Siemers would prefer that.

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: Perhaps you could arrange that with them.

SIR DAVID MAXWELL-FYFE: Certainly, My Lord.

THE PRESIDENT: That is to say, we would take Puhl's evidence as soon as convenient, either after the evidence on behalf of the Defendant Dönitz or after the evidence on behalf of the Defendant Raeder, whichever you prefer.

SIR DAVID MAXWELL-FYFE: If Your Lordship prefers, we will do that.

DR. LATERNSER: Mr. President, I should like to inform the Tribunal that my colleague Dr. Stahmer's applications for the Defendant Göring, which were made with a view to clarifying the Katyn case, are also of interest to me with reference to my clients. I gathered from the application made by the Russian prosecutor that this complex, too, was submitted to implicate the General Staff and the OKW, although no evidence has been submitted to suggest that these events took place either by order or with the approval of the General Staff and the OKW.

THE PRESIDENT: Does this not, perhaps, interest all the defendants?

DR. LATERNSER: Yes. But I only wish to inform the Tribunal that I am interested in my colleague Dr. Stahmer's applications, and that I also request you to allow them. We have agreed to share the task, and that is my colleague Dr. Stahmer's reason for making the

application. I wanted first to inform the Tribunal of that arrangement.

I should also like to remind the Tribunal that some time ago, when my colleague Dr. Nelte, acting on behalf of the Defendant Keitel, forfeited the examination of the witness Halder, I pointed out to the Tribunal that this action encroached upon my privileges, and that the witness Halder must be allowed for cross-examination by the Russian Prosecution. At that time, I was told that the witness Halder would probably appear for examination, and I have checked it in the record. When I referred to the point during that session, the Tribunal said that it would announce its decision in a few days. Although some considerable time has elapsed since then, no announcement has been made. I merely draw the attention of the Tribunal to this point.

THE PRESIDENT: Your witnesses have not been dealt with yet, have they? You have not applied for your witnesses yet? They have not been proffered? The matter has not been dealt with?

DR. LATERNSER: Mr. President, this is a repetition of the misunderstanding which arose when I pointed out to you at that time that the forfeiture of the witness Halder constituted an infringement of my rights. The situation at the time was that the Russian Prosecution submitted an affidavit made by General Halder, and when the Defense objected, which at that time was done in my name too, the Tribunal decided that the witness Halder would have to appear for examination here. I have the right to cross-examine him, and therefore this is the proper time to call that to the attention of the Tribunal.

THE PRESIDENT: Yes, but the convenient time is the question. You will have the opportunity to cross-examine him. But the question is when. You want to cross-examine him yourself on behalf of the High Command?

DR. LATERNSER: Yes.

THE PRESIDENT: We will consider that, Dr. Laternser.

The Tribunal will now adjourn.

[The Tribunal adjourned until 13 May 1946 at 1000 hours.]

ONE HUNDRED AND TWENTY-EIGHTH DAY

Monday, 13 May 1946

Morning Session

FLOTTENRICHTER KRANZBÜHLER: With the permission of the Tribunal I would like to submit my remaining documents, and then call Admiral Wagner as my first witness.

The next document I come to is Dönitz-37. It is an extract from *Dokumente der Deutschen Politik* on the *Altmark* case. I do not propose to read it. It concerns a report of the captain of the *Altmark,* which shows how the sailors of the *Altmark* were shot at while trying to escape by water and across the ice. There were seven dead. It can be found, Mr. President, on Page 78 of Volume II; from Page 79 it can be seen that this action on the whole found full recognition in spite of the casualties which no doubt were regretted by the Admiralty too.

The next document, Dönitz-39, has partly been read by Sir David Maxwell-Fyfe during cross-examination. It can be found on Page 81 and the following pages. It deals with the question of reprisals following a report received regarding the shooting of survivors of the German mine-layer *Ulm.*

On Page 83 there is a summary regarding the incidents which had been reported to the Naval Operations Staff at that time and which contained examples dealing with cases where survivors were shot at by Allied naval forces. I am not so much interested in these 12 actual examples as in the attitude adopted by the Naval Operations Staff in transmitting these examples to the OKW. It is so important that I would like to read the three sentences. They are on Page 83, at the top.

> "The following accounts deal with incidents which have already been reported, and in making use of them it must also be considered that:
>
> "a) some of these incidents occurred while fighting was still going on;
>
> "b) shipwrecked persons swimming about in the water easily think that shots which missed their real target are directed against them;

"c) so far no evidence whatsoever has been found that a written or oral order for the shooting of shipwrecked persons has been issued."

The idea of reprisals did not only occur to the Command, but it also occurred to the personnel serving on the ships at the front.

Now, we come to Document Dönitz-41, which is on Page 87 and deals with a conversation between Admiral Dönitz and a commander. The conversation took place in June 1943, and it is dealt with in an affidavit made by Korvettenkapitän Witt. Following descriptions of attacks made by British fliers on shipwrecked German submarine crews, the opinion was expressed by the crews that in reprisal the survivors of enemy ships should also be shot at.

The affidavit also says in the third paragraph:

"The Admiral sharply declined the idea of attacking an enemy rendered defenseless in combat; it was incompatible with our way of waging war."

In connection with the Prosecution's Exhibit GB-205 I shall submit a document of my own which deals with the question of terroristic actions. It is an extract from Exhibit GB-194 of the Prosecution, and it can be found on Page 91. It deals with the question of whether the crews of scuttled German ships should be rescued or not. The French press tends to say they should not, in view of the pressing need of the Allies for freight space. The same entry contains a report according to which British warships also had special instructions to prevent further scuttling of German ships.

I now shall try to prove that the principle according to which no commander undertakes rescue actions if he thereby endangers a valuable ship is justified. For that purpose I refer to Document Dönitz-90, which is in the Volume IV of the document book, Page 258. It is an affidavit of Vice Admiral Rogge, retired. He reports that in November 1941 his auxiliary cruiser was sunk from a great distance by a British cruiser and that the survivors had taken to the boats. They were towed away by a German submarine to a German supply ship and this supply ship too, a few days later, was sunk from a great distance by a British cruiser. Once again the survivors took to the boats and to floats. The affidavit closes with the words:

"At both sinkings no attempt was made, presumably due to danger involved for the British cruiser, to save even individual crew members."

The principle that a valuable ship must not risk rescue actions to save even members of its own crew is expressed with classical clarity and severity in the British Admiralty Orders which I have

already submitted as Dönitz-67. The extract is printed on Page 96. There it says:

"Aid to ships attacked by submarines: No British ocean-going merchant ship should aid a ship attacked by U-boats. Small coastal ships, fishing steamers, and other small ships with little draught should give all possible aid."

The next document I submit is Dönitz-44, which is on Page 97. It is a questionnaire for Vice Admiral Kreisch who, according to a decision by the Tribunal, was interrogated in a British camp for prisoners of war. From January 1942 to January 1944 he was the officer in charge of submarines in Italy, which means that he was responsible for submarine warfare in the Mediterranean. According to his statements he knows of no order or suggestions regarding the killing of survivors. He advised his commanders that rescue measures must not endanger the task and safety of their own ships.

In connection with the question whether Admiral Dönitz was a member of the Reich Government I should like to ask the Tribunal to take judicial notice of the German Armed Forces Law of 1935 which can be found on Page 105 of Volume II of my document books. Paragraph 3 will show that there was only one Minister for the German Armed Forces and that was the Reich Minister of War. On the following page in Paragraph 37 it is shown that this one Minister was assigned the right to issue legislative orders.

On Page 107 I again have the decree which has been submitted to the Tribunal as Document 1915-PS, in which, dated 4 February, the post of the Reich Minister of War is abolished and the tasks of his Ministry are transferred to the Chief of the OKW. No new Ministry for the Army or the Navy is established.

The Prosecution has described Admiral Dönitz as a fanatical follower of the Nazi Party. The first document to prove this statement is dated 17 December 1943; it is Exhibit GB-185. Considering the time factor, I shall refrain from reading a few sentences from it to show that anything that Admiral Dönitz may have said about political questions was said from the point of view of the unity and strength of his sailors. May I ask the Tribunal to take judicial notice of this document, which again appears on Pages 103 and 104 of Volume II.

I only want to draw your attention to the last paragraph on Page 104. It deals with the handing over of Navy shipyards to the Ministry of Armament in the autumn of 1943. It is an important question, important for the responsibility regarding the use of labor in the shipyards, and has been touched upon repeatedly in this Court. This sole tendency toward unity becomes clear from yet another document of the Prosecution from which I propose to

read one sentence. It is Exhibit GB-186. In the British trial brief it is on Page 7. I shall only read the second and third sentences: "As officers we have the duty to be guardians of this unity of our people. Any disunity would also affect our troops." The following sentence deals with the same thought at greater length.

THE PRESIDENT: British trial brief, Page 7? Mine has only five pages. You mean the document book?

FLOTTENRICHTER KRANZBÜHLER: It is the British document book; not the trial brief, but the document book, second and third sentences on Page 7, which I have read, Mr. President.

The fact that Admiral Dönitz was not a fanatical follower of the Party but on the contrary fought against a political influence exercised upon the Armed Forces by the Party is shown in my following document, Dönitz-91. It is on Page 260 of Document Book 4. It is an affidavit from the chief of the legal department in the High Command of the Navy, Dr. Joachim Rudolphi. The Soviet Prosecution has already used this document during its cross-examination. I should like to give a brief summary of the contents:

In the summer of 1943 Reichsleiter Bormann made an attempt through the Reich Minister of Justice to deprive the Armed Forces courts of their jurisdiction in so-called political cases. They were to be transferred to the Peoples' Court and other courts. The attempt, however, failed. It failed due to a report which Admiral Dönitz made verbally to the Führer on this subject and during which he violently opposed the intentions of the Party. After the assassination attempt on 20 July, Bormann renewed his attempt. Again Admiral Dönitz raised objections, but this time without success. A decree was issued on 20 September 1944 which deprived the Armed Forces courts of their jurisdiction regarding so-called political perpetrations. This decree, which was signed by Adolf Hitler, was not carried out in the Navy by explicit order of the Commander-in-Chief of the Navy.

I shall read the last paragraph but one of the affidavit, which says:

> "This attitude of the Commander-in-Chief of the Navy made it possible for the Navy, as the only branch of the Armed Forces until the end of the war, not to have to transfer to the Peoples' Court or to a special court any criminal procedures of political coloring."

On page 113 in Volume II of my document book I have included a lengthy extract from Exhibit GB-211, a document of the Prosecution; and this is an application by the Commander-in-Chief of the Navy addressed to the Führer and asking for supplies for the construction and repair of naval and merchant ships. During the

interrogation and cross-examination of Admiral Dönitz this document has already been referred to. I should merely like to point out that this is a memorandum containing more than 20 pages; the Prosecution took up two points contained therein.

The origin of the document is dealt with in Document Dönitz-46, Page 117 and the following pages. This is an affidavit from the officer who had drafted this memorandum. I can summarize the contents. The memorandum is concerned with measures which did not actually come within the sphere of the Commander-in-Chief of the Navy. It arose on the basis of a discussion which took place between all departments taking part in the construction and repair of war and merchant vessels. All these measures are summarized in this memorandum. The point objected to in particular by the Prosecution as amounting to a suggestion in favor of punitive measures against sabotage in shipyards is dealt with in detail on Page 119. I should like to point out particularly that at that time seven out of eight ships under construction were destroyed by sabotage.

It was not a question of terror measures but of punitive measures entailing the forfeiting of certain advantages and, if necessary, the concentration of workers in camps adjoining the shipyards, so as to cut them off from any sabotage agents.

Following Exhibit GB-209 of the Prosecution, which deals with the alleged renunciation of the Geneva Convention, I submit Dönitz-48, which is on Page 122 and the following pages. It will show the model treatment afforded Allied prisoners of war in the only prisoner-of-war camp which was under the jurisdiction of Admiral Dönitz as the Commander-in-Chief of the Navy.

To begin with, the document contains an affidavit from two officers who dealt with prisoner-of-war affairs in the High Command of the Navy. This statement is to the effect that all the suggestions of the International Red Cross regarding these camps were followed.

The next extract is a report by the last commandant of that camp, Korvettenkapitän Rogge, and I should like to read the second paragraph from that report:

> "In the camp Westertimke there were housed at my time about 5,500 to 7,000, at the end 8,000, prisoners of war and internees of different nations, mainly members of the British Navy. The camp had a good reputation, as was generally known. It was the best in Germany. This was expressly stated at a congress of British and other prisoner-of-war physicians of all German camps, which took place in Schwanenwerder near Berlin at the villa of Goebbels about December 1944. This statement was confirmed by the British

chief camp physician in Westertimke, Major Dr. Harvey, British Royal Army, whom I am naming as a witness."

I shall also read the last paragraph on Page 126:

"As I was deputy commandant I stayed at the camp up to the capitulation and gave up the camp in the regular way to British troops who were quite satisfied with the transfer. Squadron Leader A. J. Evans gave me a letter confirming this. I enclose a photostat of this letter."

This photostat copy appears on the following page, and it says:

"Korvettenkapitän W. Rogge was for 10 months chief camp officer at the Marlag Camp at Westertimke. Without exception all the prisoners of war in that camp have reported that he treated them with fairness and consideration."

Then follows another affidavit from the intelligence officer in that camp. I should like to point out that this officer was born in February 1865 and that his age alone would, I think, exclude the use of any terror measures. I shall read from Page 129, the third from the last paragraph:

"No means of pressure were employed at Dulag Nord. If a man told falsehoods he was sent back to his room and was not interrogated for 2 or 3 days. I believe I can say that no blow was ever struck at Dulag Nord."

I should now like to refer briefly to the accusation raised against the defendant according to which he as "a fanatical Nazi" prolonged a hopeless war. I submit Dönitz-50, which contains statements made by Admiral Darlan, Mr. Chamberlain, and Mr. Churchill in 1940. They will be found on Pages 132 and 133 of the document book and they will show that the afore-mentioned persons also considered it expedient in a critical situation to call upon the nation—partly with success and partly without—to render the utmost resistance.

During his examination Admiral Dönitz gave as the reason for his views that he wanted to save German nationals in the East. As evidence for this I draw your attention to Exhibit GB-212, which can be found on Page 73 of the British document book. It is a decree of 11 April 1945, and I shall read two sentences under heading 1:

"Capitulation means for certain the occupation of the whole of Germany by the Allies along the lines of partition discussed by them at Yalta. It also means, therefore, the ceding to Russia of further considerable parts of Germany west of the river Oder. Or does anyone think that at that stage the Anglo-Saxons will not keep to their agreements and will oppose a further advance of the Russian hordes into Germany with armed forces, and will begin a war with Russia for our sake?

The reasoning, 'Let the Anglo-Saxons into the country; then at least the Russians will not come,' is faulty, too."

I shall also quote from Exhibit GB-188, which is on Page 10 of the document book of the Prosecution—I beg your pardon, Page 11. It is an order to the German Armed Forces dated 1 May 1945. I shall quote the second paragraph:

"The Führer has designated me to be his successor as head of State and as Supreme Commander of the Armed Forces. I am taking over the Supreme Command of all branches of the German Armed Forces with the will to carry on the struggle against the Bolsheviks until the fighting forces and hundreds of thousands of families of the German eastern areas have been saved from slavery and destruction."

This, Mr. President, is the end of my documentary evidence.

Two interrogatories are still outstanding. One is that of Kapitän zur See Rösing and the other of Fregattenkapitän Suhren. Furthermore—and this is something I particularly regret—the interrogatory from the Commander-in-Chief of the American Navy, Admiral Nimitz, has still not been received. I will submit these documents as soon as I have received them.

And now, with permission of the Tribunal, I should like to call my witness, Admiral Wagner.

MR. DODD: Mr. President, while the witness is being called in, I would like to raise one matter with the Tribunal. On Saturday I understand that the question of when the witness Puhl would be called was raised before the Tribunal. And as I understand it from the record, it was left for counsel to settle the matter as to whether he should be called before the Raeder case comes on or after the Raeder case.

I should like to say that we have some reasons for asking that he be called before the Raeder case, and there are two: First of all, he is here in the prison under a kind of confinement different from that under which he has been held by the French in the French territory; and secondly, the officer, Lieutenant Meltzer, who has been assisting in the Funk case, is very anxious—for compelling personal reasons—to return to the United States, and of course he will not be able to do so until we have concluded the Funk case. And, Mr. President, it will not take very long in my judgment to hear this witness. He is only here for cross-examination on his affidavit and we would appreciate it if he could come on at the conclusion of the Dönitz case.

THE PRESIDENT: Very well, Mr. Dodd, he can be brought for cross-examination after the Dönitz case.

[The witness Wagner took the stand.]

THE PRESIDENT: Will you state your full name, please?

GERHARD WAGNER (Witness): Gerhard Wagner.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: Will you sit down.

FLOTTENRICHTER KRANZBÜHLER: Admiral, when did you join the Navy?

WAGNER: On 4 June 1916.

FLOTTENRICHTER KRANZBÜHLER: Which positions did you hold in the High Command of the Navy, and at what time?

WAGNER: From summer 1933 until the summer of 1935 I was adviser in the operational department of the High Command. I was Kapitänleutnant and then Korvettenkapitän. In 1937, from January until September, I had the same position. From April 1939 until June 1941 I was the head of the operational group, known as "IA," in the operations section of the Naval Operations Staff. From June 1941 until June 1944 I was the chief of the operations section of the Naval Operations Staff. From June 1944 until May 1945, I was admiral for special tasks attached to the Commander-in-Chief of the Navy.

FLOTTENRICHTER KRANZBÜHLER: So that during the entire war you were a member of the Naval Operations Staff?

WAGNER: Yes, that is so.

FLOTTENRICHTER KRANZBÜHLER: What were the general tasks of the Naval Operations Staff?

WAGNER: The tasks of the Naval Operations Staff included all those involved in naval warfare, both at sea and in the defense of the coasts, and also in the protection of our own merchant shipping. As far as territorial tasks were concerned, the Naval Operations Staff did not have any, neither at home nor in the occupied territories.

FLOTTENRICHTER KRANZBÜHLER: Was the Naval Operations Staff part of the High Command of the Navy, the OKM?

WAGNER: The Naval Operations Staff was part of the High Command of the Navy.

FLOTTENRICHTER KRANZBÜHLER: What was the relationship between the Naval Operations Staff and the Supreme Command of the Armed Forces, the OKW?

WAGNER: The OKW passed on the instructions and orders of Hitler, who was the Supreme Commander of the Armed Forces, regarding the conduct of the war; usually, as far as naval warfare particularly was concerned, after examination and review by the Naval Operations Staff. General questions of the conduct of the war were decided without previous consultations with members of the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: In which manner were the preparations of the High Command of the Navy for a possible war carried out?

WAGNER: Generally speaking, they consisted of mobilization preparations, tactical training, and strategic considerations for the event of a possible conflict.

FLOTTENRICHTER KRANZBÜHLER: Did the Naval Operations Staff during your time receive an order to prepare for a definite possibility of war?

WAGNER: The first instance was the order for "Case White," the war against Poland. Before that, only tasks regarding security measures were given us.

FLOTTENRICHTER KRANZBÜHLER: Were plans elaborated for the naval war against England?

WAGNER: A plan for the war against England did not exist at all before the beginning of the war. Such a war seemed to us outside the realm of possibility. Considering the overwhelming superiority of the British fleet, which can hardly be expressed in proportionate figures, and considering England's strategical domination of the seas such a war appeared to us to be absolutely hopeless. The only means by which Britain could have been damaged effectively was by submarine warfare; but even the submarine weapon was by no means being given preferential treatment nor was its production accelerated. It was merely given its corresponding place in the creation of a well-balanced homogeneous fleet.

At the beginning of the war all we had were 40 submarines ready for action, of which, as far as I can remember, barely half could have been used in the Atlantic. That, in comparison with the earth-girdling naval means at the disposal of the first-ranking world power England, is as good as nothing. As a comparison, I should like to cite the fact that both the British and the French Navy at the same time had more than 100 submarines each.

FLOTTENRICHTER KRANZBÜHLER: Did the then Captain Dönitz, as chief of the submarines, have anything to do with the planning of the war?

WAGNER: Captain Dönitz at that time was a subordinate front-line commander, under the command of the chief of the fleet and he, because of his warfare experience, had the task of training and tactically guiding the inexperienced submarine personnel.

FLOTTENRICHTER KRANZBÜHLER: Did he in turn make any suggestions or instigate any plans for the war?

WAGNER: No, these preparations and this war planning, in particular for the "Case White," were exclusively the task of the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: Did Dönitz at any previous time hear about the military intentions of the Naval Operations Staff?

WAGNER: No.

FLOTTENRICHTER KRANZBÜHLER: Did Admiral Dönitz hear of the military intentions of the Naval Operations Staff at a time earlier than necessary for the carrying out of the orders given him?

WAGNER: No, he heard of it by means of the orders reaching him from the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: Admiral Wagner, you know of the London Agreement of 1936 regarding submarine warfare. Did the Naval Operations Staff draw any conclusions from that agreement for their preparation for a war, in particular, for carrying on a possible economic war?

WAGNER: The Prize Regulations still existing from the last war were revised and made to conform with the London Agreement. For that purpose a committee was formed which included representatives from the High Command of the Navy, the Foreign Office, the Reich Ministry of Justice, and scientific experts.

FLOTTENRICHTER KRANZBÜHLER: Were these new Prize Regulations made known to the commandants some time before the war or were they communicated to them just when they were published shortly before the outbreak of the war?

WAGNER: These new Prize Regulations were published in 1938 as an internal ordinance of the Navy, which was available for the purpose of training officers. During the autumn maneuvers of the Fleet in 1938 a number of exercises were arranged for the purpose of acquainting the officer corps with these new regulations. I, myself, at that time . . .

THE PRESIDENT: Where are the new Prize Regulations you are referring to?

FLOTTENRICHTER KRANZBÜHLER: I am talking about the regulations published on 26 August 1939, which are contained in my

document book. They are on Page 137, in Volume III of my document book.

THE PRESIDENT: Thank you.

FLOTTENRICHTER KRANZBÜHLER: I beg your pardon, Mr. President; the date is not 26, but 28 August.

THE PRESIDENT: The witness was saying that exercises were carried out?

FLOTTENRICHTER KRANZBÜHLER: Yes, in the year 1938.

THE PRESIDENT: Yes.

FLOTTENRICHTER KRANZBÜHLER: *[Turning to the witness.]* Which conceptions did the Naval Operations Staff have after the beginning of the war regarding the development of the naval war against Britain?

WAGNER: The Naval Operations Staff thought that Great Britain would probably start in where she had stopped at the end of the first World War. That meant that there would be a hunger blockade against Germany, a control of the merchandise of neutral countries, introduction of a system of control, the arming of merchant ships, and the delimitation of operational waters.

FLOTTENRICHTER KRANZBÜHLER: I am now going to have the battle order of 3 September 1939 shown to you. It is Document Dönitz-55. It can be found on Page 139, in Volume III of the document book. You will see from this that submarines, like all naval forces, had orders to adhere to this Prize Ordinance in the economic warfare.

Then, at the end, you will find an order which I propose to read to you. This is on Page 140:

"Order prepared for intensifying the economic war because of the arming of enemy merchant ships.

"1) Arming of, and therefore resistance from, the majority of English and French merchant ships is to be expected.

"2) Submarines will stop merchant ships only if own vessel is not endangered. Attack without warning by submarines is allowed against plainly recognized enemy merchant ships.

"3) Battleships and auxiliary cruisers will watch for possibility of use of arms by merchant ships when stopped."

I should like to ask you whether this order was prepared long ago or whether it was improvised at the last moment?

WAGNER: At the beginning of the war we were forced to improvise a great many orders we were issuing, because they were not prepared thoroughly.

FLOTTENRICHTER KRANZBÜHLER: Did this order become operative at all?

WAGNER: No.

FLOTTENRICHTER KRANZBÜHLER: Why not?

WAGNER: After consultation with the Foreign Office, we had decided that we would strictly adhere to the London Agreement until we had clear-cut evidence of the British merchant navy being used for military purposes. We remembered from the last war the power which the enemy propaganda had, and we did not under any circumstances want to give anyone cause once more to decry us as pirates.

FLOTTENRICHTER KRANZBÜHLER: When, at what stage, did the military use of enemy merchant ships become clear to the Naval Operations Staff?

WAGNER: The fact that enemy merchant vessels were armed became clear after a few weeks of the war. We had a large number of reports about artillery fights which had occurred between U-boats and armed enemy merchant ships. Certainly one, and probably several boats were lost by us. One British steamer, I think it was called *Stonepool,* was praised publicly by the British Admiralty for its success in combating submarines.

FLOTTENRICHTER KRANZBÜHLER: The Tribunal already has knowledge of the order of 4 October allowing attacks against all armed merchant ships of the enemy and also of the order of 17 October allowing attacks on all enemy merchant ships with certain exceptions.

Were these orders the result of experiences which the Naval Operations Staff had regarding the military use of enemy merchant ships?

WAGNER: Yes, exclusively.

FLOTTENRICHTER KRANZBÜHLER: Both orders contain exceptions favoring passenger ships. They were not to be attacked even when they were members of an enemy convoy. To what were these exceptions due?

WAGNER: They were due to an order from the Führer. At the beginning of the war he had stated that Germany did not have any intention of waging war against women and children. He wished, for that reason, that also in naval war any incidents in which women and children might lose their lives should be avoided. Consequently, even the stopping of passenger ships was prohibited. The military necessities of naval warfare made it very difficult to adhere to this order, particularly where passenger ships were traveling in enemy convoys. Later on, step by step, this order was altered as it

became evident that there was no longer any peaceful passenger traffic at all and that enemy passenger ships were particularly heavily armed and used more and more as auxiliary cruisers and troop transport ships.

FLOTTENRICHTER KRANZBÜHLER: Were the orders of the German Naval Operations Staff regarding the combating of armed enemy ships and later enemy ships as a whole made known to the British Admiralty?

WAGNER: Neither side made its war measures known during the war, and that held true in this case also. But in October the German press left no doubt whatsoever that every armed enemy merchant ship would be sunk by us without warning, and later on it was equally well known that we were forced to consider the entire enemy merchant marine as being under military direction and in military use.

These statements by our press must no doubt have been known to the British Admiralty and the neutral governments. Apart from that, and I think this was in October, Grossadmiral Raeder gave an interview to the press on the same theme.

FLOTTENRICHTER KRANZBÜHLER: A memorandum of the Naval Operations Staff was issued in the middle of October: "On the Possibilities of Intensifying the War against Merchant Shipping"; I am going to have this memorandum shown to you. Its number is GB-224. After looking at this memorandum please tell me what its purpose was and what the memorandum contains.

Mr. President, some extracts can be found on Page 199, in Volume IV of the document book.

WAGNER: This memorandum was issued due to the situation that existed since the beginning of the war. On 3 September 1939 Britain had begun a total hunger blockade against Germany. Naturally that was not directed only against the fighting men, but against all nonfighting members, including women, children, the aged, and the sick. It meant that Britain would declare all food rations, all luxury goods, all clothing, as well as all raw materials necessary for these items, as contraband and would also exercise a strict control of neutral shipping of which Germany would be deprived insofar as it would have to go through waters controlled by Great Britain. Apart from that, England exercised a growing political and economic pressure upon the European neighbors of Germany to cease all commerce with Germany.

That intention of the total hunger blockade was emphatically confirmed by the Head of the British Government, Prime Minister Chamberlain, during a speech before the House of Commons at the end of September. He described Germany as a beleaguered fort;

and he added that it was not customary for beleaguered forts to be accorded free rations. That expression of the beleaguered fort was also taken up by the French press.

Furthermore, Prime Minister Chamberlain stated around the beginning of October—according to this memorandum it was on 12 October—that in this war Britain would utilize her entire strength for the destruction of Germany. From this we drew the conclusion, aided by the experiences of the last World War, that England would soon hit German exports under some pretext or other.

With the shadow of the total hunger blockade, which no doubt had been thoroughly prepared during long years of peace, creeping in upon us we now had a great deal to do to catch up, since we had not prepared for war against Great Britain. We examined, both from the legal and military point of view, the possibilities at our disposal by which we in turn might cut off Britain's supplies. That was the aim and purpose of that memorandum.

FLOTTENRICHTER KRANZBÜHLER: You are saying, therefore, that this memorandum contains considerations regarding means for countering the British measures with correspondingly effective German measures?

WAGNER: Yes, that was definitely the purpose of that memorandum.

FLOTTENRICHTER KRANZBÜHLER: Studying that memorandum you will find a sentence—C. 1. is the paragraph—according to which the Naval Operations Staff must remain basically within the limits of international law, but that decisive war measures would have to be carried out even if the existing international law could not be applied to them.

Did this mean that international law was to be generally disregarded by the Naval Operations Staff, or what is the meaning of this sentence?

WAGNER: That question was duly studied by the Naval Operations Staff and discussed at great length. I should like to point out that on Page 2 of the memorandum, in the first paragraph, it states that obedience to the laws of chivalry comes before all else in naval warfare. That, from the outset, would prevent a barbarous waging of war at sea. We did think, however, that the modern technical developments would create conditions for naval warfare which would certainly justify and necessitate further development of the laws of naval warfare.

FLOTTENRICHTER KRANZBÜHLER: Which technical developments do you mean?

WAGNER: I am thinking mainly of two points: First, the large-scale use of the airplane in naval warfare. As a result of the speed

and wide range of the airplane, militarily guarded zones could be created before the coasts of all warfaring nations, and in respect to these zones one could no longer speak of freedom of the seas. Secondly, the introduction of electrical orientation equipment which made it possible, even at the beginning of the war, to spot an unseen opponent and to send fighting forces against him.

FLOTTENRICHTER KRANZBÜHLER: It says in this memorandum that decisive war measures are to be taken even though they create new laws at sea. Did occasion arise for such measures?

WAGNER: No; at any rate, not at once. In the meantime, I think on 4 November, the United States of America declared the so-called American combat zone, and the specific reason given for it was that in that zone actual belligerent actions rendered the sea dangerous for American shipping. By this announcement some of the points of that memorandum were in immediate need of being revised. As a rule we remained within the limits of the measures as they had been employed by both parties during the first World War.

FLOTTENRICHTER KRANZBÜHLER: By these measures do you mean the warning against navigating in certain zones?

WAGNER: Yes.

FLOTTENRICHTER KRANZBÜHLER: According to some of the exhibits used by the Prosecution, Numbers GB-194 and 226, submarines were permitted to attack all ships without warning in certain areas, beginning with January 1940. The attacks were to be carried out, if possible, unseen, while maintaining the fiction that the ships struck mines.

Will you please tell the Tribunal which sea lanes or areas were concerned in this? I shall have a sea-chart handed to you for that purpose. I am submitting it to the Tribunal as Exhibit Dönitz-93.

Will you please explain what can be seen on that map.

WAGNER: In the middle of the map you will find the British Isles. The large part of the ocean which is shaded on the edge shows the afore-mentioned American combat zone. The shaded parts of the sea near the British coast are those parts which were ordered to be German submarine operational zones. They were given letters from A to F in accordance with the time when they were set up.

FLOTTENRICHTER KRANZBÜHLER: Can you tell us up to which depth these German operational zones went?

WAGNER: I think perhaps as far as the 200 meter line.

FLOTTENRICHTER KRANZBÜHLER: Does this depth guarantee favorable use of mines?

WAGNER: Yes, down to 200 meters the use of anchored mines is possible without any difficulty.

FLOTTENRICHTER KRANZBÜHLER: In these operational zones certain dates have been entered. Will you please explain how it happened that on those particular dates, and in that sequence, these territories were made operational zones?

WAGNER: All those areas were declared to be operational zones where our fighting forces came into contact with enemy traffic and a concentration of the enemy defense, resulting in main combat areas.

To begin with, they were the zones at the northern and southern end of the German-mined zones which had been declared along the British East Coast and in the Bristol Channel. You can see, therefore, that Zone A lies to the east of Scotland and is dated 6 January. The Bristol Channel Zone is dated 12 January, and finally at the southern end of this danger zone, that is, to the east of London, there is the date of 24 January.

Later on, according to the fluctuations of the actual fighting, further areas around the British Isles and then off the French Coast were designated.

FLOTTENRICHTER KRANZBÜHLER: Up to what date did this development continue?

WAGNER: The last zone was declared on 28 May 1940.

FLOTTENRICHTER KRANZBÜHLER: Had neutrals been warned against navigating in these zones?

WAGNER: Yes, an official note had informed neutral countries that the entire U.S.A. fighting zone had to be considered as being dangerous, and that they should negotiate the North Sea to the east and to the south of the German mine area which was north of Holland.

FLOTTENRICHTER KRANZBÜHLER: What difference is there between the situation as shown by this map, and the German declaration of a blockade of 17 August 1940?

That is, Mr. President, the declaration I have submitted as Dönitz-104, which can be found on Page 214 in Volume IV of the document book.

WAGNER: As far as the limits of the danger zone are concerned, there was really no difference. This fact was also stated by Prime Minister Churchill in the House of Commons at the time. However, the difference which did exist was that up to that time we confined ourselves to the area I have just described, near the British Coast, whereas now we considered the entire U.S.A. combat zone as an operational zone.

The declaration regarding a blockade was based on the fact that in the meantime France had been eliminated from the war, and that Britain now was the focal point of all belligerent action.

FLOTTENRICHTER KRANZBÜHLER: Did the German blockade zone in its entirety correspond exactly or more or less with the U.S.A. combat zone?

WAGNER: It was nearly exactly the same as the U.S.A. combat zone. There were merely a few insignificant corrections.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I am submitting another sea-chart as Dönitz-92, in which . . .

THE PRESIDENT: I think perhaps that would be a good time to break off then.

[A recess was taken.]

FLOTTENRICHTER KRANZBÜHLER: Now, Mr. President, as Dönitz-94, I submit a chart of the German blockade zone dated 17 August.

Admiral Wagner, just for the sake of repeating, what were the limits of the German blockade region in relation to the U.S. fighting zone?

THE PRESIDENT: I thought you had already told us that. You told us that the blockade zone was the same as the American zone, didn't you?

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President, I thought that we had not been understood quite correctly before the recess.

[Turning to the witness.] What was the naval practice of the enemy as far as this operational zone was concerned? Was there any practice that they followed?

WAGNER: Yes, the practice on the part of the enemy was identical with ours. In the areas controlled by us in the Baltic, in the eastern part of the North Sea, around Skagerrak and later on in the Norwegian and French waters, the enemy used every suitable weapon without giving previous warning, without notifying us in advance by which means of combat other ships were to be sunk—submarines, mines, aircraft, or surface vessels. In these regions the same thing applied to neutrals, and especially to Sweden.

FLOTTENRICHTER KRANZBÜHLER: Now, I would like to confront you with a statement by the First Lord of the British Admiralty. You will find this on Page 208 of the document book, Volume IV. This statement is dated 8 May 1940, and I have ascertained, Mr. President, that unfortunately it is wrongly reproduced in the British document book; so I shall quote from the original.

"Therefore we limited our operations in the Skagerrak to the submarines. In order to make this work as effective as possible,

the usual restrictions which we have imposed on the actions of our submarines were relaxed. As I told the House, all German ships by day and all ships by night were to be sunk as opportunity served."

I should like to submit this as Exhibit Dönitz-102.

THE PRESIDENT: What is the difference that you were making in the copy we have before us—"... all ships were to be sunk by day and German ships by night ..." Is that it?

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President. It should be corrected to read, "all German ships by day and all ships by night were to be sunk."

THE PRESIDENT: I see; I said it wrong—"and all ships by night." Yes, very well.

FLOTTENRICHTER KRANZBÜHLER: Admiral Wagner, what was the significance of this statement and this practice so far as the German ships were concerned?

WAGNER: It means that all German ships by day and by night in this area were to be sunk without warning.

FLOTTENRICHTER KRANZBÜHLER: And what does it mean for the neutral ships?

WAGNER: It means that without warning all neutral ships in this area by night ...

THE PRESIDENT: Dr. Kranzbühler, surely the document speaks for itself. We don't need to have it interpreted by a witness who isn't a lawyer.

FLOTTENRICHTER KRANZBÜHLER: Very well.

[Turning to the witness.] Then, tell me, please, from what period of time onward, according to German experiences, did this practice exist in the Skagerrak?

WAGNER: With certainty from 8 April 1940, but I believe I recall that even on 7 April this practice was already in existence.

FLOTTENRICHTER KRANZBÜHLER: Had this area at this period of time, that is, the 7th or 8th of April, already been declared a danger zone?

WAGNER: No, the first declaration of danger zone for this area took place on 12 April 1940.

FLOTTENRICHTER KRANZBÜHLER: Now I shall have a sea-chart handed to you dealing with the British danger zones, and this shall be Dönitz-92. Please explain the significance of this chart briefly to the Tribunal.

WAGNER: This chart shows the danger zones in European waters as declared by England on the basis of German data. The following areas are of special significance:

First of all, the area in the Bay of Helgoland which on 4 September 1939, that is, on the second day of the war, was declared dangerous. Then the afore-mentioned danger zone, Skagerrak and the area south of Norway, which was declared on 12 April 1940. Then the danger zone in the Baltic, on 14 April 1940; and following upon that, the other danger zones as declared in the course of the year 1940.

I should like to remark also that, according to my recollection, these danger zones were all declared mine danger zones, with the exception of the Channel zone and of the Bay of Biscay, on 17 August 1940. These were generally dangerous zones.

FLOTTENRICHTER KRANZBÜHLER: Were these areas actually dominated by the British sea and air forces, or did German traffic still continue?

WAGNER: In these areas there was even very lively German traffic. Thus the Baltic Sea, which in its entire expanse from East to West, about 400 nautical miles in length, had been declared a danger zone, was in reality controlled by us during the entire war. In this area there was an extensive freight traffic, the entire ore traffic from Sweden and the corresponding exports to Sweden.

FLOTTENRICHTER KRANZBÜHLER: Was there only traffic of German ships or also of neutral ships?

WAGNER: This traffic was in German and Swedish ships, but other neutrals also participated in this traffic, for instance, Finland. A similar situation applied in the Skagerrak where, besides the German supply traffic, a large part of the foodstuffs for the Norwegian population was transported. Of course, during this time both German and neutral ships were lost.

FLOTTENRICHTER KRANZBÜHLER: I assume, therefore, that both German and neutral seamen lost their lives. Is that correct?

WAGNER: Of course, personnel losses took place as well.

FLOTTENRICHTER KRANZBÜHLER: Were the German merchantmen, at the time when these operational zones were declared, armed—that is, at the end of 1939 or the beginning of 1940?

WAGNER: Until the middle of 1940 German merchantmen were not at all armed. From then on they were comparatively slightly armed, especially with antiaircraft weapons.

Transport ships of the Navy had always been armed, that is, government ships, which supplied German cruisers and auxiliary cruisers in the Atlantic.

FLOTTENRICHTER KRANZBÜHLER: Now I shall submit to you a document of the Prosecution, Exhibit GB-193, which is found in the Prosecution's document book on Page 29. This document deals with a proposal by the Commander of the U-boats that "... in the Channel, ships with blacked-out lights may be sunk without warning." Can you tell me just whose ideas we are dealing with in the statements set forth in this document?

WAGNER: From the signature found in this document it appears that we are concerned with a document by a U-boat expert in the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: Who was that?

WAGNER: Lieutenant Fresdorf, who was my subordinate.

FLOTTENRICHTER KRANZBÜHLER: Are these statements in accord with the actual circumstances and were they approved by the Naval Operations Staff, or just what was the situation?

WAGNER: Here we are concerned with the rather romantic ideas of a young expert, ideas which were in no way commensurate with the situation. The situation was rather as follows: At this time, that is, in September 1939, the second wave of the British Expeditionary Corps left England for France. The transports ran mostly during the night and were blacked out. At this same time an order existed according to which French ships were neither to be stopped nor attacked; this was still in force for political reasons.

It is quite obvious that at night a blacked-out French ship cannot be told from a blacked-out English ship, just as at night a merchant ship cannot, or only with difficulty, be told from a warship.

These orders, therefore, meant that at night, in order to avoid a mistake, practically no shooting could be done, and therefore the English troop transport was entirely unhampered. This brought about really grotesque situations. It was ascertained that a German U-boat in a favorable position of attack let a fully-loaded English troop transport ship of 20,000 tons pass by, since there was the possibility of making a mistake. The Naval Operations Staff agreed completely with the commanders of the U-boats that no naval war could be carried on in this manner. If a blacked-out ship sails in a belligerent area, better still, in an area where there is a large supply and troop transport traffic, it is liable to suspicion and cannot expect the war to be halted at night for its sake.

Therefore it was not a question of our explaining or excusing ourselves for sinking a ship without warning because we had mistaken it, but the obvious fact at hand was that the blacked-out ship alone was to blame if it was not properly recognized and was sunk without warning.

FLOTTENRICHTER KRANZBÜHLER: In these notes we find that the commanders of U-boats, when sinking a merchant ship without warning, were required to make the notation in their log that they had taken it for a warship and that an order, a verbal order, to this effect was to be given to the commanders of the U-boats. Is that correct, and was it done in actual practice?

WAGNER: No, we never did anything like that.

FLOTTENRICHTER KRANZBÜHLER: Was the Flag Officer of the U-boats given strict and clear orders that blacked-out ships at night in the Channel might be attacked without warning?

WAGNER: Yes. This clear order was issued, but nothing more.

FLOTTENRICHTER KRANZBÜHLER: If the statements of this young officer are not correct, and if no orders were issued accordingly, how is it that these things can be found in the War Diary of the Naval Operations Staff?

WAGNER: This paper is not a direct part of the War Diary of the Naval Operations Staff. The War Diary itself, in which the daily happenings were recorded, was signed by me, by the Chief of Staff of the Naval Operations Staff, and by the Commander-in-Chief of the Navy. Here we are concerned with the entry of an expert which was destined for a file collection and motivated by the War Diary.

FLOTTENRICHTER KRANZBÜHLER: That means, then, that the considerations and opinions of experts were collected and filed no matter whether they were approved of or put into actual practice?

WAGNER: Yes. All of these files were collected for later purposes.

FLOTTENRICHTER KRANZBÜHLER: Did the Naval Operations Staff receive news of the incidents which happened after the sinking of the *Laconia,* and did it approve of the measures taken by the Commander of the U-boats?

WAGNER: The Naval Operations Staff, then as always, listened in on all the wireless messages of the Commander-in-Chief in the *Laconia* case. It approved of the measures taken by him, but it would not have been at all surprised if the Commander of the U-boats had stopped the entire rescue work at the very first air attack upon the U-boats.

FLOTTENRICHTER KRANZBÜHLER: Did the Naval Operations Staff know of the order of the Commander of the U-boats, dated 17 September, in which rescue work by U-boats was expressly prohibited?

WAGNER: This order given by the Commander of the U-boats was also heard by wireless.

FLOTTENRICHTER KRANZBÜHLER: Was this order interpreted by the Naval Operations Staff to the effect that it was to be an order for the shooting of shipwrecked people?

WAGNER: No; no one ever had this idea.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, at this point I should like to put several questions to the witness which have a bearing on the credibility of the statements made by the witness Heisig. But I should like to ask in advance whether there are any objections to my putting these questions, since my documents referring to the witness Heisig were not ruled admissible.

THE PRESIDENT: Was the object of the questions which you were offering to put to this witness to show that the witness Heisig was not a witness who could be believed upon his oath? Was that your object?

FLOTTENRICHTER KRANZBÜHLER: The general object is to show how the testimony of this witness originated; that is, the testimony which was submitted to the Court.

THE PRESIDENT: What do you mean by "originated"?

FLOTTENRICHTER KRANZBÜHLER: That is to say, what influence on the witness Heisig forms the basis of this testimony.

THE PRESIDENT: What is the exact question you wanted to ask? You may state it, and we will let the witness wait until we have seen what the question is.

FLOTTENRICHTER KRANZBÜHLER: I should like to ask the witness, "Did the witness Heisig report to you about the manner in which his affidavit, which was submitted to the High Tribunal as evidence by the Prosecution, originated?"

THE PRESIDENT: The question that you put, as I took it down, was: What did the witness Heisig report to you about the way his affidavit came about? Is that the question?

FLOTTENRICHTER KRANZBÜHLER: Yes, Your Honor.

THE PRESIDENT: What are you purporting to prove by getting the reports that Heisig may have made to this witness?

FLOTTENRICHTER KRANZBÜHLER: I should like to prove therewith, Mr. President, that Heisig was under a certain influence, that is, that he wrongly assumed that he could help a comrade through his testimony.

THE PRESIDENT: Who applied for Heisig's affidavit?

FLOTTENRICHTER KRANZBÜHLER: I did not understand, Mr. President.

THE PRESIDENT: Heisig has given an affidavit, has he not?

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: That was for the Prosecution, was it?

FLOTTENRICHTER KRANZBÜHLER: That is right.

THE PRESIDENT: And have you asked to cross-examine him?

FLOTTENRICHTER KRANZBÜHLER: I interrogated him about this affidavit, Mr. President.

THE PRESIDENT: You did?

FLOTTENRICHTER KRANZBÜHLER: Yes, I did question him; and I called his attention to the contradictions between his affidavit and his testimony here in Court.

SIR DAVID MAXWELL-FYFE: My Lord, I have not read the transcript on this point for about 10 days. But I did read it then, and my recollection is that it was never suggested to the witness Heisig that he gave his affidavit under pressure, which I gather is the suggestion now. Your Lordship will remember that although we had the affidavit, we called the witness Heisig. He said that what was in his affidavit was true; and then he gave his evidence, giving a detailed account of all the relevant matters. So we made it perfectly possible for Dr. Kranzbühler to cross-examine him at the time and to show any differences, as Dr. Kranzbühler just said he purported to do, between the affidavit and his oral evidence.

THE PRESIDENT: Dr. Kranzbühler has just said, I think, that he did actually cross-examine him.

SIR DAVID MAXWELL-FYFE: He did cross-examine him on that point—on any differences that appeared between his affidavit and his oral testimony. But he was here to be cross-examined, and if it is going to be suggested that the affidavit was obtained by improper means, that suggestion ought to have been made at the time, and then it could have been dealt with.

My Lord, I object to its coming in at this stage, after the witness Heisig has been away, and therefore no opportunity has been given to us either to investigate the matter or to have the evidence there, which could have been done when Heisig gave his evidence; and we could have been prepared for any contradictory evidence now.

My Lord, as a matter of strictness, surely, if I may put it that way, there are two distinct lines. If it was a question of whether Heisig's evidence was admissible or whether it had been obtained under pressure, then it would be quite possible to have this trial within a trial as to whether it was admissible or not. But if this evidence is, broadly, merely directed to the credibility of Heisig's evidence, then I respectfully submit it falls within the same objections I made on Saturday to general evidence directed against the credibility of a witness.

THE PRESIDENT: I do not think it is suggested that there was any pressure put by the Prosecution upon Heisig. I do not understand that that is what you are suggesting, Dr. Kranzbühler, is it?

FLOTTENRICHTER KRANZBÜHLER: No, no pressure; but the picture as drawn was not true.

SIR DAVID MAXWELL-FYFE: I understood Dr. Kranzbühler —if I misunderstood him, so much the easier—I understood him to say that he wanted to give this evidence as to certain influence. I thought that was the word used.

THE PRESIDENT: I think he meant, not influence exerted by the Prosecution, but exerted by a mistaken notion in the witness' own mind that he was helping a friend.

SIR DAVID MAXWELL-FYFE: I see. My Lord, then that merely goes to credibility and it does then fall within my general objection; that is, if we are going to have evidence as directed on credibility, we go on *ad infinitum.*

THE PRESIDENT: Dr. Kranzbühler, the Tribunal will allow this question to be put in this particular instance, but they make no general rule as to the admissibility of such questions.

FLOTTENRICHTER KRANZBÜHLER: Thank you very much, Mr. President.

Admiral Wagner, in December you were in the prison here together with the witness Heisig. Is that correct?

WAGNER: Yes, from the first until the fifth of December.

FLOTTENRICHTER KRANZBÜHLER: And what did Heisig tell you about the underlying considerations of his affidavit?

WAGNER: He told me the following personally: At the interrogation he had been told that Lieutenant Hoffmann, officer of the watch of Kapitänleutnant Eck, had testified that at that time he had listened to the speech by Admiral Dönitz at Gotenhafen in the autumn of 1942, and that he had considered this as a demand for the killing of survivors of shipwrecks. Heisig had been told:

> "If you confirm this testimony of Hoffmann, then you will save not only Eck and Hoffmann, but also two others who would have been sentenced to death. You will prevent any kind of judicial proceeding against Captain Möhle from being instituted. Of course, you will thus incriminate Grossadmiral Dönitz but the material against Admiral Dönitz is of such tremendous weight that his life has been forfeited anyway."

Further he told me, and without prompting, that at that time, on the occasion of the speech by the Admiral Dönitz, he had been deeply distressed. He had just returned from Lübeck, where he had

experienced and seen the frightful consequences of an air attack; that is he had perhaps not experienced it, but at least he had seen the consequences. His mind was set on revenge for these brutal measures, and he considered it possible that this emotional state might have influenced his interpretation of Grossadmiral Dönitz' speech.

FLOTTENRICHTER KRANZBÜHLER: Now we shall turn to a different point.

THE PRESIDENT: Sir David.

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

THE PRESIDENT: If the Prosecution desire to do so, they can, of course, recall Heisig for the purpose of investigating this further.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases, Heisig is no longer here; that is the difficulty when this is done in this order. However, we can consider the matter, My Lord, and we are grateful to the Tribunal for the permission.

THE PRESIDENT: Is Heisig not in custody? Is that what you mean?

SIR DAVID MAXWELL-FYFE: Yes, My Lord, he is no longer in custody.

FLOTTENRICHTER KRANZBÜHLER: He is studying medicine at Munich; he can be very easily reached.

SIR DAVID MAXWELL-FYFE: Thank you.

FLOTTENRICHTER KRANZBÜHLER: From when on were you admiral for special tasks attached to the Commander-in-Chief of the Navy and what were your tasks in that capacity?

WAGNER: From the end of June 1944 onward, and the purpose of my assignment was the following: After the success of the Anglo-Saxon invasion in northern France, Admiral Dönitz counted on an increased tension in the military situation. He believed that one day he might be forced to leave the Naval Operations Staff, either to remain permanently at the Führer's headquarters, or at least for a longer period of time, in order to keep up with the development of the entire war situation, or because a transfer of the Naval Operations Staff might be necessary because of the increasingly heavy air attacks on Berlin. For this purpose the Grossadmiral wanted an older and experienced naval officer in his immediate vicinity, an officer who was well-versed in the problems of sea warfare and who was acquainted with the duties and tasks of the Naval Operations Staff.

My mission was, therefore, a sort of liaison between the Commander-in-Chief of the Navy, the Naval Operations Staff and the

other offices of the High Command for the duration of the Grossadmiral's absence from the High Command.

FLOTTENRICHTER KRANZBÜHLER: Did you accompany the Grossadmiral regularly on his visits to the Führer's headquarters?

WAGNER: Yes; from the period mentioned I was present regularly.

FLOTTENRICHTER KRANZBÜHLER: Now I hand you a list of these visits which has been submitted by the Prosecution as GB-207. This may be found in the document book of the Prosecution on Page 56. Please look at this list and tell me whether the dates recorded there are essentially correct.

WAGNER: The dates are essentially correct. At the end the list is not complete, for the period from 3—no; from 10 April until 21 April 1945 is missing. On that day the Grossadmiral participated for the last time at the conferences in the Führer's headquarters. Beyond that, it seems to me that the list of the people present is incomplete. I also do not know according to what point of view or with what idea in mind this was compiled.

FLOTTENRICHTER KRANZBÜHLER: If you carefully examine this list of people, can you tell me whether Admiral Dönitz was always with these people on the dates mentioned, or does this mean only that these persons were at the Führer's headquarters at the same time he was? Can you still recall these points?

WAGNER: Yes. If these people participated in the military conferences, then Admiral Dönitz at least saw them. Of course, people in high positions were frequently at the Führer's headquarters who did not participate in the military conferences and whom the Grossadmiral did not see unless he had special conversations with them.

FLOTTENRICHTER KRANZBÜHLER: For what reason did Admiral Dönitz . . .

SIR DAVID MAXWELL-FYFE: My Lord, upon this point, if the witness is saying that any one of these minutes is incomplete, I should be very grateful if he would specify it, because we can get the original German minutes here and confirm the affidavit.

FLOTTENRICHTER KRANZBÜHLER: I believe the witness said only that additional people participated in these discussions and that, at the end, some of the conferences are lacking. However, I do not know just what details I should question him about. Perhaps the Prosecution will deal with that matter later in cross-examination?

THE PRESIDENT: But Sir David wants him to specify which are the ones, if he can.

FLOTTENRICHTER KRANZBÜHLER: Very well.

[Turning to the witness.] Can you tell me more specifically as to any one of these dates, whether those present are correctly named or whether there were other people present, or whether Grossadmiral Dönitz was not present?

WAGNER: I can tell you exactly that this list is incorrect because it never occurred that neither Field Marshal Keitel nor Generaloberst Jodl was present at the headquarters. For example, on 4 March 1945 neither one of these men is mentioned, nor on 6 March or 8 March. Therefore I conclude that this list cannot be complete. In other places, however, the name of Jodl appears; for example, on 18 March 1945.

FLOTTENRICHTER KRANZBÜHLER: The decisive point seems to be whether Admiral Dönitz was present in the Führer's headquarters on all of these days. Can you confirm that point?

WAGNER: Of course, from memory I cannot confirm that with reference to every single day. However, I am under the impression that the list is correct in that connection, for the frequency of the visits of the Grossadmiral corresponds with the notes in this list, and spot checks show me that the dates are correct.

FLOTTENRICHTER KRANZBÜHLER: Why did Grossadmiral Dönitz come to the Führer's headquarters? What were the reasons?

WAGNER: The chief reason for the frequent visits, which became even more frequent toward the end of the war, was the desire to keep up with the development of the general war situation so that he, Dönitz, could lead the Navy and carry on the naval war accordingly. Beyond that, questions usually came up which the Admiral could not decide for himself out of his own authority and which, because of their importance, he wanted to bring up personally or to discuss with the representatives of the OKW and of the General Staff.

FLOTTENRICHTER KRANZBÜHLER: In each of these cases was there a personal report of the Grossadmiral to the Führer?

WAGNER: This is what happened: Most of the problems and reports for the Führer were taken care of during the conference in connection with the Admiral's report on the naval warfare situation.

FLOTTENRICHTER KRANZBÜHLER: One moment. Was the Admiral always present at the military conferences when he was at the headquarters?

WAGNER: The Admiral took part at least in the discussion of the main session every day.

FLOTTENRICHTER KRANZBÜHLER: And what is the main session?

WAGNER: At noon every day there was a military conference which lasted several hours. This was the main conference. In addition, for months, sessions, including special sessions, were held in the evening or at night, at which the Admiral participated only when very important matters were to be discussed—matters of special importance for the conduct of the war. Then, as I said, he participated.

FLOTTENRICHTER KRANZBÜHLER: Now you say that most of the questions which the Grossadmiral had to put to the Führer were taken care of at the military conference. Were there any personal reports besides this?

WAGNER: Personal reports on the part of the Grossadmiral to Hitler took place very seldom; on the other hand, personal discussions with the OKW and the other military offices at the headquarters took place daily.

FLOTTENRICHTER KRANZBÜHLER: Now, I would like to know something more in detail about this so-called "Lagebesprechung," the conferences.

The Prosecution seem to consider this as a sort of War Cabinet at which, for instance, Ribbentrop would report about foreign policies, Speer about questions of production, Himmler about security questions. Is this a correct picture? Who took part in these sessions, what people participated regularly and who attended only once in a while?

WAGNER: The participants at the conferences were generally the following:

Regular participants: from the OKW, Field Marshal Keitel, General Jodl, General Buhle, Post Captain Assmann, Major Büchs, and a few more Chiefs of Staff. Then the Chief of the General Staff of the Army with one or two aides, and as a rule also the Chief of the General Staff of the Air Force with one aide. Further regular participants were: the Chief of the Army Personnel Office, who was Chief Adjutant to the Führer; General Bodenschatz, until 20 July 1944; Vice Admiral Voss who was the permanent deputy of the Grossadmiral; Gruppenführer Fegelein, as Himmler's permanent deputy; Ambassador Hewel; Minister Sonnleitner, permanent deputy of the Foreign Minister; Reich Press Chief Dr. Dietrich. Frequently the following participated: the Commander-in-Chief of the Luftwaffe; less frequently, Himmler. In addition to these there was a varying participation on the part of special officers, mainly from the General Staff of the Army, and on the part of higher front commanders of the Army and of the Air Force who happened to be in headquarters. Beyond that, toward the end of the war Reich Minister Speer in his capacity as Armament Minister also participated

in an increasing measure, and in rare cases the Reich Foreign Minister Von Ribbentrop, both as listeners at the conferences. I believe that is the complete list.

FLOTTENRICHTER KRANZBÜHLER: Who reported at these conferences and what was reported on?

WAGNER: These sessions were for the sole purpose of informing Hitler about the war situation—about the Eastern situation through the General Staff of the Army, and through the OKW about the situation in all other theaters of war and concerning all three branches of the Wehrmacht. The report took place as follows:

First of all, the Chief of General Staff of the Army reported about the Eastern situation; then Generaloberst Jodl reported on the situation in all other theaters of war on land. Next, Post Captain Assmann of the OKW reported on the naval situation. In between, frequent, often hour-long, conversations took place which dealt with special military problems, panzer problems, aerial problems and such. And after the aerial problems were dealt with the discussion was at an end, and we left the room. I frequently saw that Ambassador Hewel went in to Hitler with a batch of reports, apparently from the Foreign Office, and reported on them without the rest of us knowing what they contained.

FLOTTENRICHTER KRANZBÜHLER: In these conferences was there voting or was there consultation, or who gave the orders?

WAGNER: In these conferences all military questions were discussed and frequently decisions were reached by the Führer, that is, if no further preparations were necessary for a decision.

FLOTTENRICHTER KRANZBÜHLER: What for example did the Foreign Minister Von Ribbentrop do there when he was present?

WAGNER: I only saw Foreign Minister Von Ribbentrop perhaps five or six times at these conferences, and I cannot remember that he ever said anything during the entire session. He was only present at the conference for his own information.

FLOTTENRICHTER KRANZBÜHLER: How about Minister Speer, what did he do?

WAGNER: Minister Speer also very seldom brought in armament problems during the discussion. I know that questions of armament were always discussed between Hitler and Speer in special discussions. However, some exceptions may have occurred.

FLOTTENRICHTER KRANZBÜHLER: What was Himmler doing there, or his permanent deputy Fegelein? Did they discuss questions of security, or what was their mission?

WAGNER: No. During the military conference security problems were never discussed. Himmler and his deputy appeared very frequently in connection with the Waffen-SS, and Fegelein had always to give reports about the setup, organization, arming, transportation and engagement of the SS divisions. At this time the SS divisions, according to my impression, still played a very important part, for ostensibly they represented a strategic reserve and were much discussed.

FLOTTENRICHTER KRANZBÜHLER: I have a record of the meeting which was written by you. It has the Number GB-209. It is not found in the document book. It says in the third paragraph —and I am just reading one sentence:

> "The Deputy of the Reichsführer SS at the Führer's headquarters, SS Gruppenführer Fegelein, transmits the request of the Reichsführer as to when he can count on the arrival of the 'Panther'"—those are tanks—"coming from Libau."

Is this typical of SS Gruppenführer Fegelein's work?

WAGNER: Yes. That was the kind of questions which were dealt with at every one of these sessions.

FLOTTENRICHTER KRANZBÜHLER: At the end of the war Kaltenbrunner appeared several times also. Did he speak or report?

WAGNER: I cannot remember one single utterance on Kaltenbrunner's part during one of these military conferences.

FLOTTENRICHTER KRANZBÜHLER: What role did Admiral Dönitz play at the session discussions?

WAGNER: Even when Grossadmiral Dönitz was present the naval situation was reported by the deputy from the OKW, Commodore Assmann. However, the Admiral used this occasion to present, in connection with the individual theaters of war, or in summary at the end, those questions which he had in mind. The Admiral was neither asked nor did he give any opinion on questions dealing with air or land warfare which had no connection with the conduct of the naval war. In his statements he strictly confined himself to the sphere of the Navy, and very energetically objected if someone else during the session tried to interfere in questions of naval warfare.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I have come to a break. If the Tribunal agrees to declare a recess . . .

THE PRESIDENT: Very well. We will adjourn.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

THE PRESIDENT: The Tribunal will adjourn this afternoon at 4:30 in order to sit in closed session.

FLOTTENRICHTER KRANZBÜHLER: Admiral Wagner, as time went on a close relationship developed between Admiral Dönitz and Adolf Hitler. Was this due to the fact that the Admiral was particularly ready to comply with the Führer's wishes?

WAGNER: No, not at all. Admiral Dönitz' activity as Commander-in-Chief of the Navy began with a very strong opposition to Hitler. It was Hitler's intention to scrap the large ships of the Navy, that is to say, the remaining battleships and cruisers. Admiral Raeder had already rejected that plan.

FLOTTENRICHTER KRANZBÜHLER: That story is already known, Admiral. You need not go into it in detail.

WAGNER: Very well. Apart from that, Hitler's respect for Dönitz was due to the fact that every statement which the Admiral made was absolutely reliable and absolutely honest. The Admiral attached particular importance to the fact that particularly unfavorable developments, failures, and mistakes were to be reported at headquarters without digression, objectively, and simply. As an example, I should like to mention that the Admiral had given me the order...

THE PRESIDENT: I do not think we need examples of that sort of thing. Surely the general statement is quite sufficient.

FLOTTENRICHTER KRANZBÜHLER: Did the Admiral in any way show himself particularly willing to comply with the Führer's political wishes or those of the Party?

WAGNER: No. Such wishes of the Party were, in my opinion, only put to the Navy in three cases. One was the question of the churches, which for the most part came up during the time of Admiral Raeder. I think it is generally known that the Navy retained its original religious organization and, in fact, extended it as the Navy grew.

The second request made by the Party was that, modeled on the Russian example, political commissars should be set up within the Armed Forces. On that occasion Admiral Dönitz went to see Hitler and prevented the carrying out of that plan. When after 20 July 1944 Bormann nevertheless succeeded in getting the so-called "NSFO"—the National Socialist Leadership Officers—introduced into the Armed Forces, it did not happen in the way the Party wished, by appointing political commissars. It was merely done by using officers who were under the jurisdiction of the commander

and who could not in any way interfere with the leadership of the troops. The third case was the intention on the part of the Party to take away from the Armed Forces the political penal cases.

FLOTTENRICHTER KRANZBÜHLER: This case is also already known, Admiral. You kept the records of the visits at the Führer's headquarters, is that correct?

WAGNER: Yes.

FLOTTENRICHTER KRANZBÜHLER: A number of these records have been introduced as evidence in this Court. Will you please explain to the Tribunal what was the purpose of keeping these records of visits of commanders-in-chief to the Führer's headquarters?

WAGNER: The Chief of the Naval Operations Staff, the Chief of the Naval Armaments, and the Chief of the General Navy Department—that is to say, the three leading men in the High Command of the Navy—were to be informed by means of these records of all happenings which took place in the presence of the Admiral, as far as they were of any interest to the Navy. That was one of my tasks.

FLOTTENRICHTER KRANZBÜHLER: You have just said "informed about happenings which took place in the presence of the Admiral." Does that mean that he himself must have heard everything that has been put down in these records?

WAGNER: Not necessarily. It happened quite frequently that during situation reports, when they took place in a large room and when subjects were discussed which did not interest him so much, the Admiral would retire to another part of the room and deal with some business of his own or discuss Navy questions with other participants in the meeting. It was possible that on such occasions I heard things and put them down in the record which the Admiral himself did not hear. But, of course, he would know about them later when he saw my record.

FLOTTENRICHTER KRANZBÜHLER: I am going to have shown to you one of your own records of discussions on 20 February 1945. It is Exhibit Number GB-209, and it is on Page 68 of the document book of the Prosecution. This deals with considerations regarding the renouncing of the Geneva Convention. Will you please describe exactly what happened as you remember it?

WAGNER: Approximately two or three days before the date in this record—in other words, on or about 17 or 18 February 1945—Admiral Voss telephoned me from headquarters, which at that time was situated in Berlin, and informed me that in connection with Anglo-Saxon propaganda to induce our troops to

desert in the West, Hitler had stated his intention to leave the Geneva Convention.

FLOTTENRICHTER KRANZBÜHLER: What did he hope to achieve?

WAGNER: According to my first impression at the time, the intention was evidently to express to the troops and the German people that captivity would no longer bring any advantage. Thereupon, I immediately telephoned to the Naval Operations Staff, since I considered the intention to be completely wrong, and I asked them for a military opinion and an opinion from the point of view of international law.

On the 19th, when taking part in the situation discussion, Hitler once more referred to this question, but this time not in connection with happenings on the western front; but in connection with the air attacks by the western enemies on open German towns—attacks had just been made on Dresden and Weimar.

He ordered the Admiral to examine the effects of leaving the Geneva Convention from the point of view of naval warfare. An immediate answer was not expected and it was not given. Generaloberst Jodl was also quite strongly opposed to these intentions and he sought the Admiral's support. Thereupon it was agreed to have a conference and that is the conference which is mentioned in the record under Figure 2.

FLOTTENRICHTER KRANZBÜHLER: That is the conference of 20 February, Admiral?

WAGNER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Who participated in that conference?

WAGNER: Admiral Dönitz, Generaloberst Jodl, Ambassador Hewel, and myself.

FLOTTENRICHTER KRANZBÜHLER: What was the subject?

WAGNER: The subject was the Führer's intention of renouncing the Geneva Convention. The result was the unanimous opinion that such a step would be a mistake. Apart from military consideration we especially held the conviction that by renouncing the Geneva Convention both the Armed Forces and the German people would lose confidence in the leadership, since the Geneva Convention was generally considered to be the conception of international law.

FLOTTENRICHTER KRANZBÜHLER: In your notes there is a sentence, "One would have to carry out the measures considered necessary without warning and at all costs 'to save face' with the outer world." What is the significance of that sentence?

WAGNER: That sentence means that on no account should there be any irresponsible actions. If the leaders considered it necessary to introduce countermeasures against air attacks on open German towns, or against the propaganda for desertion in the West, then one should confine oneself to such countermeasures which appear necessary and justifiable. One should not put oneself in the wrong before the world and one's own people by totally repudiating all the Geneva Conventions and announce measures which went far beyond what appeared to be necessary and justifiable.

FLOTTENRICHTER KRANZBÜHLER: Were any concrete measures discussed in this connection or were any such measures even thought of?

WAGNER: No. I can remember very well that no specific measures were discussed at all during the various conferences. We were mainly concerned with the total question of whether to repudiate the Geneva Convention or not.

FLOTTENRICHTER KRANZBÜHLER: Did you ever learn anything about a so-called intention on Adolf Hitler's part to shoot 10,000 prisoners of war as a reprisal for the air attack on Dresden?

WAGNER: No, I have never heard anything about that.

FLOTTENRICHTER KRANZBÜHLER: The expression "to save face"—doesn't that mean secrecy, hiding the true facts?

WAGNER: In my opinion it was certain that there was no question of secrecy, for neither the countermeasures against air attacks nor the measures of intimidation against desertion could be effective if they were concealed.

FLOTTENRICHTER KRANZBÜHLER: How long did this whole conversation which you recorded last?

WAGNER: Will you please tell me which conversation you mean?

FLOTTENRICHTER KRANZBÜHLER: The discussion of 20 February which contains the sentences which I have just read to you.

WAGNER: It took perhaps ten minutes or a quarter of an hour.

FLOTTENRICHTER KRANZBÜHLER: So that your record is a very brief condensed summary of the conversation?

WAGNER: Yes, it only contains the important points.

FLOTTENRICHTER KRANZBÜHLER: Did Admiral Dönitz also submit his objections to the Führer?

WAGNER: As far as I recollect, it never reached that point. One became convinced that Hitler, as soon as he put his questions to the Admiral, could gather from the Admiral's expression and the attitude of the others that they rejected his plans. We passed

our views on to the High Command of the Armed Forces in writing and heard no more about the whole matter.

FLOTTENRICHTER KRANZBÜHLER: I am now going to show you another record which is submitted under GB-210. It is on the next page of the document book of the Prosecution and it refers to conferences at the Führer's headquarters from 29 June to 1 July 1944.

You will find an entry under the date of 1 July which reads, "In connection with the general strike in Copenhagen, the Führer says that terror can be subdued only with terror." Was this statement made during a conversation between Hitler and Admiral Dönitz or in which connection?

WAGNER: This is a statement made by Hitler during a situation discussion and addressed neither to Admiral Dönitz nor to the Navy.

FLOTTENRICHTER KRANZBÜHLER: Well, if it was not addressed to the Navy, then why did you include it in your record?

WAGNER: I included in my record all statements which could be of any interest to the Navy. The High Command of the Navy was, of course, interested in the general strike in Copenhagen because our ships were repaired in Copenhagen; and apart from that Copenhagen was a naval base.

FLOTTENRICHTER KRANZBÜHLER: And to whom did you pass this record? Who received it?

WAGNER: According to the distribution list on Page 4, the paper went only to the Commander-in-Chief and department 1 of the Naval Operations Staff.

FLOTTENRICHTER KRANZBÜHLER: Did the Naval Operations Staff have anything to do with the treatment of shipyard workers in Denmark?

WAGNER: No, nothing at all. From 1943 on the shipyards were entirely under the Ministry of Armaments.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution sees in this statement and its transmission to a department of the OKW an invitation to deal ruthlessly with the inhabitants. Does that in any way tally with the meaning of this record?

WAGNER: There can be no question of that. The only purpose of this record was to inform the Departments of the High Command.

FLOTTENRICHTER KRANZBÜHLER: I am now going to have another document shown to you. It is Exhibit Number USA-544. It is in the document book of the Prosecution on Pages 64 and 65. It is a note by the international law expert in the Naval Operations Staff regarding the treatment of saboteurs. Do you know this note?

WAGNER: Yes. I have initialed it on the first page.

FLOTTENRICHTER KRANZBÜHLER: At the end of that note you will find the sentence:

"As far as the Navy is concerned, it should be investigated whether the occurrence cannot be used, after reporting to the Commander-in-Chief of the Navy, to make sure that the treatment of members of Commando troops is absolutely clear to all the departments concerned."

Was this report made to Admiral Dönitz who at that time had been Commander-in-Chief of the Navy for ten days?

WAGNER: No, that report was not made, as the various remarks at the head of it will show.

FLOTTENRICHTER KRANZBÜHLER: Will you explain that, please?

WAGNER: The international law expert in the Naval Operations Staff IA made this suggestion through the Operations Office IA to me as Chief of the Operational Department. The chief of the IA Section in a handwritten notice beside his initials, wrote, "The subordinate commanders have been informed." That means that he had objected to the proposal of the international law expert and considered that an explanation of the orders within the Navy was superfluous. I investigated these matters and I decided that the operations officer was right. I sent for the international law expert, Dr. Eckardt, informed him orally of my decision, and returned this document to him. Thus the suggestion to report to the Commander-in-Chief of the Navy made in connection with the explanation of this order was not actually carried out.

FLOTTENRICHTER KRANZBÜHLER: Can you remember whether Admiral Dönitz on some later occasion received reports on this Commando order?

WAGNER: No, I have no recollection of that.

FLOTTENRICHTER KRANZBÜHLER: I have submitted to you GB-208, which is a record regarding the case of a motor torpedo boat at Bergen. It is the case which is contained in the British document book on Pages 66 and 67. Have you ever heard about this incident before this Trial?

WAGNER: No. I heard about it for the first time on the occasion of interrogations in connection with these proceedings.

FLOTTENRICHTER KRANZBÜHLER: I gather from the files of the British court-martial proceedings, which have been submitted by the Prosecution during cross-examination, that before the shooting of the crew of that motor torpedo boat there had been two telephone conversations, between the Chief of the Security Service in Bergen and the SD at Oslo, and between the SD at Oslo and

Berlin. Can you recollect whether such a conversation took place between the SD at Oslo and yourself or one of the representatives in the High Command?

WAGNER: I certainly had no such conversation, and as far as I know neither did any other officer in my department or in the High Command.

FLOTTENRICHTER KRANZBÜHLER: Do you consider it at all possible that the SD at Oslo might get in touch with the High Command of the Navy?

WAGNER: No, I consider that quite out of the question. If the SD in Oslo wanted to get in touch with a central department in Berlin then they could only do so through their own superior authority, and that is the RSHA.

FLOTTENRICHTER KRANZBÜHLER: I now put to you another document; it is Exhibit GB-212 which appears on Page 75 of the document book of the Prosecution. It mentions an example of a commandant of a German prisoner-of-war camp and it says he had communists who had attracted attention among the inmates suddenly and quietly removed by the guards. Do you know of this incident?

WAGNER: Yes, such an episode is known to me. I think we received the report from a prisoner of war—a man who had been severely injured and who had been exchanged—that the German commandant of a prisoner-of-war camp in Australia, in which the crew of the auxiliary cruiser *Cormoran* were detained, had secretly had a man of his crew killed because he had been active as a spy and traitor.

FLOTTENRICHTER KRANZBÜHLER: But this order does not mention the word "spy." It says "communist." What is the explanation?

THE PRESIDENT: It does not say "communist." It says "communists" in the plural.

FLOTTENRICHTER KRANZBÜHLER: "Communists," plural.

WAGNER: In my opinion the only explanation is that the true state of affairs was to be concealed so as to prevent the enemy intelligence from tracing the incident and making difficulties for the senior sergeant in question. Thus, a different version was chosen.

FLOTTENRICHTER KRANZBÜHLER: It was the opinion of the Soviet Prosecution that this showed there was a plan for the silent removal of communists. Can you tell us anything about the origin of this order, whether such a plan existed and whether it had ever come under discussion?

WAGNER: First of all the order was addressed to those personnel offices which were responsible for choosing young potential officers and noncommissioned officers in the Navy. There were about six or seven personnel offices. Beyond that I can only say that of course...

FLOTTENRICHTER KRANZBÜHLER: Just a moment, Admiral, please.

THE PRESIDENT: Dr. Kranzbühler, is it necessary to go into all this detail? The question is, was there an order with reference to making away with the people of this sort or was there not—not all the details about how the order came to be made.

FLOTTENRICHTER KRANZBÜHLER: In that case I shall put the question this way: Was there any order or any desire in the Navy to kill communists inconspicuously and systematically?

WAGNER: No, such an order or such a plan did not exist. Of course, there were a considerable number of communists in the Navy. That was known to every superior officer. The overwhelming majority of those communists did their duty as Germans just as any other German in the war.

FLOTTENRICHTER KRANZBÜHLER: Admiral Dönitz has been accused by the Prosecution because as late as the spring of 1945 he urged his people to hold out obstinately to the end. The Prosecution considers that evidence of the fact that he was a fanatical Nazi. Did you and the majority of the Navy consider this to be so?

WAGNER: No, the Admiral's attitude was not considered to be political fanaticism. To them it meant that he was carrying out his ordinary duty as a soldier to the last. I am convinced that this was the view of the great majority of the entire Navy, the men and the noncommissioned officers as well as the officers.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I have no further questions to put to this witness.

THE PRESIDENT: Does any other defendant's counsel want to ask any questions?

DR. SIEMERS: Admiral Wagner, you have already briefly sketched the positions you have held. In supplementing I should like to make quite sure who held a leading position in the Naval Operations Staff under Grossadmiral Raeder in the decisive years before and after the outbreak of the war. Who was the Chief of Staff during the two years before the war, and at the beginning of the war?

WAGNER: The Chief of Staff of the Naval Operations Staff from 1938 until 1941 was Admiral Schniewind. From 1941 until after Raeder's retirement it was Admiral Fricke.

DR. SIEMERS: Those, therefore, were the two officers who worked in the highest posts under Admiral Raeder in the Naval Operations Staff?

WAGNER: They were the immediate advisers of the Admiral.

DR. SIEMERS: And the Naval Operations Staff had several departments?

WAGNER: Yes, it consisted of several departments, which were given consecutive numbers.

DR. SIEMERS: And which was the most important department?

WAGNER: The most important department of the Naval Operations Staff was the Operations Department, which was known as Number 1.

DR. SIEMERS: And the other departments, 2, 3—what did they do?

WAGNER: They were the Signals and Communications Department and the Information Department.

DR. SIEMERS: Who was the chief of the Operations Department?

WAGNER: From 1937 until 1941 it was Admiral Fricke. From 1941 until after Raeder's retirement I was the chief of that department.

DR. SIEMERS: In other words, for many years you worked under Admiral Raeder. First of all I should like to ask you to speak briefly about Raeder's basic attitude during the time you were working in the Naval Operations Staff.

WAGNER: Under Admiral Raeder the Navy was working for a peaceful development in agreement with Britain. The foremost questions were those regarding the type of ships, training, and tactical schooling. Admiral Raeder never referred to aggressive wars during any conference which I attended. Nor did he at any time ask us to make any preparations in that direction.

DR. SIEMERS: Do you remember that in 1940 and in 1941 Raeder declared himself emphatically against a war with Russia?

WAGNER: Yes, he was very strongly opposed to a war with Russia, and that for two reasons; first, he considered that to break the treaty of friendship with Russia was wrong and inadmissible, and secondly, for strategic reasons he was convinced that our entire strength should be concentrated against Britain. When in the autumn of 1940 it appeared that the invasion of Britain could not be carried out, the Admiral worked for a strategy in the Mediterranean to keep open an outlet against Britain's policy of encirclement.

DR. SIEMERS: The Navy had rather a lot to do with Russia during the friendship period between Russia and Germany in the way of deliveries. As far as you know did everything in that respect run smoothly?

WAGNER: Yes, I know that a large number of deliveries from the Navy stocks went to Russia; for instance, uncompleted ships, heavy guns, and other war material.

DR. SIEMERS: And the Navy, of course, always made efforts to maintain the friendly relations laid down in the Pact?

WAGNER: Yes, that was the Admiral's opinion.

DR. SIEMERS: Admiral Wagner, Admiral Raeder has been accused by the Prosecution that he had never bothered about international law and that he broke international law conventions as a matter of principle if it suited him. Can you express a general opinion about Raeder's attitude in that respect?

WAGNER: Yes; that is completely wrong. Admiral Raeder considered it most important that every measure for naval warfare should be examined from the point of view of international law. For that purpose we had a special expert on international law in the Naval Operations Staff with whom we in the Operations Department had almost daily contact.

DR. SIEMERS: Furthermore, Raeder has been accused by the Prosecution of advising a war against the United States and trying to get Japan to go to war with the United States. May I ask for your opinion on that?

WAGNER: I consider this charge completely unjustified. I know that Admiral Raeder attached particular importance to the fact that all naval war measures—especially in the critical year of 1941—were to be examined very closely as to the effects they might have on the United States of America. In fact he refrained from taking quite a number of militarily perfectly justified measures in order to prevent incidents with the U.S.A. For instance, in the summer of 1941 he withdrew the submarines from a large area off the coast of the U.S.A. although that area could certainly be regarded as the open sea. He forbade mine-laying action which had already begun against the British port of Halifax, Canada, to prevent, at all costs, the possibility of a United States ship striking a mine. And finally, he also forbade attacks on British destroyers in the North Atlantic because the fifty destroyers which had been turned over to England by the United States created the dangerous possibility of confusing the British and American destroyers. All this was done at a time when the United States, while still at peace, occupied Iceland, when British warships were being repaired in American shipyards, when American naval forces

had orders that all German units should be reported to the British fleet, and when finally President Roosevelt in July 1941 gave his forces the order to attack any German submarines they sighted.

DR. SIEMERS: Did Admiral Raeder ever make a statement in the Naval Operations Staff that there was no risk in a war against America and that the fleet or the American submarines were not much good?

WAGNER: No, Admiral Raeder as an expert would never have made such a statement.

DR. SIEMERS: On the contrary, did not Raeder expressly speak of the strength of the American fleet and that one could not fight simultaneously two such great sea-powers as America and Great Britain?

WAGNER: Yes, it was perfectly clear to him and to us that America's entry into the war would mean a very substantial strengthening of the enemy forces.

DR. SIEMERS: Now on one occasion Admiral Raeder suggested in his war diary that Japan should attack Singapore. Was there any discussion about Pearl Harbor in connection with that in the Naval Operations Staff?

WAGNER: No, not at all. The attack by the Japanese on Pearl Harbor was a complete surprise, both to the Admiral and to the Naval Operations Staff and, in my opinion, to every other German department.

DR. SIEMERS: Were there no continuous naval-military discussions and conferences between Japan and Germany?

WAGNER: No, before Japan's entry into the war there were no military discussions according to my conviction.

DR. SIEMERS: I should now like to show you Document C-41, Mr. President, this is Exhibit GB-69. Later on, the British Delegation will submit it in Document Book 10a for Raeder. I do not know whether the Tribunal already has it. It is as yet not contained in the trial brief against Raeder. In the newly compiled Document Book 10a, it is on Page 18.

THE PRESIDENT: You can offer it in evidence now, if you want to, so you can put it to the witness.

DR. SIEMERS: The Prosecution has submitted it; yes.

THE PRESIDENT: Very well.

DR. SIEMERS: This concerns a document signed by Admiral Fricke, and it is dated 3 June 1940. It is headed "Questions of Expansion of Areas and Bases." That document contains detailed statements on future plans.

[Turning to the witness.] I should like to ask you if Raeder gave the order to prepare this memorandum or how did this memorandum come to be written?

WAGNER: Admiral Raeder did not give the order to draft this memorandum. This constitutes the personal, theoretical ideas of Admiral Fricke regarding the possible developments in the future. They are quite fantastic, and they had no practical significance.

DR. SIEMERS: Was this study or this note talked about or discussed in any large group in the Naval Operations Staff?

WAGNER: No, in my opinion only the Operations officers had knowledge of this document, which by its very form shows that it is not a well-thought-out study made by order of Grossadmiral Raeder but an *ad hoc* jotting-down of thoughts which occurred to Admiral Fricke at the moment.

DR. SIEMERS: Was this study or this document passed on to any outsiders at all?

WAGNER: I think I can remember that this document was not sent to any outside office but remained in the Operations Department. The Grossadmiral, too, in my opinion did not have knowledge of it, particularly since this document shows that he did not initial it.

DR. SIEMERS: You have a photostat copy of that document?

WAGNER: Yes.

DR. SIEMERS: Are there any other initials on it which might show that it was put before Admiral Raeder? How was this sort of thing generally handled in the Naval Operations Staff?

WAGNER: Every document that was to be put before the Admiral had on its first page in the left margin a note: "v.A.v.," which means "to be submitted before dispatch," or "n.E.v.," "to be submitted after receipt," or else "to be reported during situation reports." And then at that place the Admiral would initial it with a green pencil, or the officers of his personal staff would make a note indicating that it had been submitted to him.

DR. SIEMERS: And there are no such marks on this document?

WAGNER: No.

DR. SIEMERS: I should like to show you Document C-38, which is a document of the Prosecution bearing the number Exhibit GB-223. It is contained in the Prosecution's document book on Raeder, Page 11.

The war between Germany and Russia began on 22 June 1941. According to the last page but one of the document which you have

before you, the OKW as early as 15 June—a week before the outbreak of the war—ordered the use of arms against enemy submarines south of the Memel line, the southern tip of Oeland, at the request of the Naval Operations Staff.

The Prosecution is basing the accusation on this document and once more referring to an aggressive war. Unfortunately, the Prosecution has only submitted the last page of this document. It did not produce the first and second page of the document. If it had done so, then this accusation would probably have been dropped. May I read to you, Witness, what is contained there; and I quote:

> "On 12 June at 2000 hours one of the submarines placed as outposts on both sides of Bornholm, as precautionary measure, reported at 2000 hours an unknown submarine in the vicinity of Adlergrund (20 miles southwest of Bornholm) which had surfaced and was proceeding on a westerly course and which answered a recognition signal call with a letter signal which had no particular significance."

That ends the quotation.

May I ask you to explain what it means that this submarine did not reply to the recognition signal call?

WAGNER: In time of war the warships of one's own fleet have an arrangement of recognition signals; that is to say, the recognition signal has a call and a reply which immediately identifies the ship as belonging to one's own fleet. If a recognition signal is wrongly answered, it proves that it is a foreign vessel.

DR. SIEMERS: As far as you can remember, were there any other clues showing that ships appeared in the Baltic sea which were recognized as enemy ships?

WAGNER: Yes. I remember that there were individual cases where unknown submarines were observed off the German Baltic ports. Subsequently it was found, by comparing the stations of our own submarines, that these were indeed enemy vessels.

DR. SIEMERS: Were these facts the reason which caused the Naval Operations Staff to ask for the use of weapons?

WAGNER: Yes, these very facts.

DR. SIEMERS: A similar case has been made the subject of an accusation in connection with Greece. It has been ascertained here in Court from the War Diary that on 30 December 1939 the Naval Operations Staff asked that Greek ships in the American blockade zone around Great Britain should be treated as hostile. Since Greece was neutral at the time, there has been an accusation against Raeder of a breach of neutrality.

May I ask you to tell us the reasons which caused the Naval Operations Staff and the Chief, Raeder, to make such a request to the OKW?

WAGNER: We had had news that Greece had placed the bulk of its merchant fleet at the disposal of England and that these Greek vessels were sailing under British command.

DR. SIEMERS: And it is correct that Greek vessels in general were not treated as hostile, but only vessels in the American blockade zone around England?

WAGNER: Yes.

DR. SIEMERS: The next case, which is somewhat similar, is that which occurred in June 1942, when the Naval Operations Staff made an application to the OKW to be allowed to attack Brazilian ships, although Brazil at that time was still a neutral. The war with Brazil started some two months later on 22 August. What reasons were there for such a step?

WAGNER: We were receiving reports from submarines from the waters around South America, according to which they were being attacked by ships which could only have started from Brazilian bases. The first thing we did was to refer back and get these questions clarified and confirmed. Moreover, I think I can remember personally that at that time it was already generally known that Brazil was giving the use of sea and air bases to the United States with whom we were at war.

DR. SIEMERS: So that this was due to a breach of neutrality on the part of Brazil?

WAGNER: Yes.

DR. SIEMERS: I should like to submit to you Documents C-176 and D-658. Document C-176 has the number Exhibit GB-228. These two documents are based on the Commando Order, that is, the order to destroy sabotage troops. The Prosecution has charged Raeder with an incident which occurred in December 1942 in the Gironde estuary at Bordeaux. In Document C-176, on the last page, you will find something which I would like to quote.

> "Shooting of the two captured Englishmen took place by a firing-squad, numbering one officer and 16 men, detailed by the port commander at Bordeaux, in the presence of an officer of the SD and by order of the Führer."

Previous entries, which I do not want to quote separately and which portray the same things, show that the SD had intervened directly and had got into direct touch with the Führer's headquarters.

I now ask you whether the Naval Operations Staff had heard anything at all about this matter before these two prisoners were shot, or whether they knew anything about this direct order from Hitler which is mentioned in this connection?

WAGNER: The Naval Operations Staff had nothing to do with a direct order for the shooting of people in Bordeaux. The Naval Operations Staff knew the tactical course of events of this sabotage undertaking in Bordeaux and nothing at the time beyond that.

DR. SIEMERS: Therefore, this case was not put to the Naval Operations Staff or to Admiral Raeder, and it was not discussed by them?

WAGNER: Yes. I am certain that that was not the case.

DR. SIEMERS: Mr. President, may I ask the Tribunal to take notice of the fact that this war diary is by no means the war diary which has been frequently mentioned, the War Diary of the Naval Operations Staff, but the war diary of the Naval Commander west, and was therefore unknown to the Naval Operations Staff. That is why the Naval Operations Staff did not know of this case.

THE PRESIDENT: You are referring now to Document C-176?

DR. SIEMERS: Yes, and also to D-658, which is the War Diary of the Naval Operations Staff.

THE PRESIDENT: What was the reference to it?

DR. SIEMERS: This is D-658, which shows the following: According to the OKW communiqué, these two soldiers had in the meantime been shot. The measure would be in keeping with the special order by the Führer. That has been submitted by the Prosecution, and it shows—and I shall refer to this later—that the Naval Operations Staff knew nothing about the entire episode because this shows an entry dated 9 December, whereas the whole affair happened on the 11th.

THE PRESIDENT: Perhaps this would be a good time to break off.

[A recess was taken.]

DR. SIEMERS: Admiral, I am now submitting to you Document UK C-124.

Mr. President, C-124 corresponds to USSR-130. This document deals with a communication from the Naval Operations Staff, dated 29 September 1941, addressed to Group North, and it deals with the future of the city of Petersburg. This report to Group North says that the Führer had decided to wipe the city of Petersburg from

the face of the earth. The Navy itself had nothing to do with that report. Despite that, this report was sent to Group North.

Witness, I will return to this point, but I would like to ask you first—you have a photostatic copy of the original—to tell me whether Raeder could have seen this document before it was dispatched?

WAGNER: According to my previous statements Admiral Raeder did not see this document since there are no marks or initials to that effect.

DR. SIEMERS: And now the more important question on this point. In view of the terrible communication which is mentioned by Hitler in Point 2, why did the Naval Operations Staff transmit it even though the Navy itself had nothing to do with it?

WAGNER: The Naval Operations Staff had asked that in bombarding, occupying or attacking Leningrad the dockyards, wharf installations, and all other special naval installations be spared so that they might be used as bases later on. That request was turned down by Hitler's statement as contained in this document, as can be seen from Point 3.

We had to communicate this fact to Admiral Carls so that he could act accordingly and because in the case of a later occupation of Leningrad he could not count on this port as a base.

DR. SIEMERS: Because of the significance of this testimony, I would like to quote to the Tribunal the decisive point to which the witness just referred, and that is III of USSR-130. I quote:

> "The original requests of the Navy to spare the dock, harbor, and other installations important from the Navy viewpoint are known to the High Command of the Wehrmacht. Compliance with these requests is not possible, because of the fundamental aim of the action against Petersburg."

That was the decisive point which the SKL told Admiral Carls as commander of Group North.

WAGNER: That was the sole reason for this communication.

DR. SIEMERS: Do you know whether Admiral Carls did anything with this document? Did he transmit it to any one, or do you not know anything about that?

WAGNER: As far as I am informed, this communication was not passed on; and it was not the intention that it should be passed on for it was meant solely for Group North. On the strength of this document, Admiral Carls stopped the preparations which had already been made for using the Leningrad naval installations later on and made the personnel available for other purposes. That is the only measure which the Navy took on the basis of this communication and the only measure which could have been taken.

DR. SIEMERS: I should tell the Tribunal that accordingly I will submit, under Number 111 in my Document Book Raeder, an affidavit which contains this fact, which the witness also points out, that nothing was passed on by Group North so that the commanding naval officers never learned of this document.

This concerns an affidavit by Admiral Bütow who at that time was Commander-in-Chief in Finland, and I shall come back to this point when I present the case on behalf of Admiral Raeder.

I have no more questions to put to the witness.

THE PRESIDENT: Does any other member of defendants' counsel wish to ask any questions?

[There was no response.]

The Prosecution may cross-examine.

COLONEL H. J. PHILLIMORE (Junior Counsel for the United Kingdom): May it please the Tribunal, with regard to the questions asked by Dr. Siemers, I was going to leave the cross-examination on those points to the cross-examination of the Defendant Raeder so as to avoid any duplication.

[Turning to the witness.] As I understand the evidence which the Defendant Dönitz has given and your evidence, you are telling the Tribunal that with respect to the treatment of neutral merchant ships, the German Navy has nothing to reproach itself with. Is that right?

WAGNER: Yes.

COL. PHILLIMORE: And the Defendant has said that the German Navy was scrupulous in adhering to orders about the attitude towards neutral shipping, and the neutrals were fully warned of what they should and should not do. Is that right?

WAGNER: Yes.

COL. PHILLIMORE: Admiral Dönitz has also said that there was no question of deceiving neutral governments; they were given fair warning of what their ships should not do. Do you agree?

WAGNER: Yes.

COL. PHILLIMORE: Now, I want just to remind you of what steps were taken as regards neutrals, as they appear from the defense documents.

First of all, on 3 September orders were issued that strict respect for all rules of neutrality and compliance with all agreements of international law which were generally recognized were to be observed.

My Lord, that is D-55, Page 139.

THE PRESIDENT: In the British document book?

COL. PHILLIMORE: In the Defense document book—Dönitz-55.

And then, on 28 September, a warning was sent to neutrals to avoid suspicious conduct, changing course, zig-zagging, and so on. That is Dönitz-61, at Page 150. On 19 October that warning was repeated and neutrals were advised to refuse convoy escort. That is Dönitz-62, at Page 153. On 22 October there was a repetition of the warning, that is Dönitz-62, Page 162; and on 24 November the neutrals were told that the safety of their ships in waters around the British Isles and in the vicinity of the French coast could no longer be taken for granted. That is Dönitz-73, at Page 206; and then from 6 January onwards, certain zones were declared dangerous zones. That is right, is it not?

WAGNER: No. On 24 November a general warning was issued that the entire United States fighting zone was to be considered dangerous. The specific zones which since January were used as operational zones were not made public, since they came within the scope of the first warning and served only for internal use within the Navy.

COL. PHILLIMORE: That is the point I want to be clear about. The zones that you declared from 6 January onwards were not announced. Is that the point?

WAGNER: Yes, the neutrals were warned on 24 November that all of those zones which had been specifically declared as operational zones since January would be dangerous for shipping.

COL. PHILLIMORE: But when you fixed the specific zones from 6 January onwards, no further specific warning was given. Is that the case?

WAGNER: That is correct. After the general warning, we issued no further specific warnings about parts of this zone.

COL. PHILLIMORE: Now, you are not suggesting, are you, that by these warnings and by this declaration of an enormous danger zone, you were entitled to sink neutral shipping without warning?

WAGNER: Yes. I am of the opinion that in this zone which we, as well as the United States of America before us, regarded as dangerous for shipping it was no longer necessary to show consideration to neutrals.

COL. PHILLIMORE: Do you mean to say that from 24 November onwards every neutral government was given fair warning that its ships would be sunk without warning if they were anywhere in that zone?

WAGNER: What I want to say is that on 24 November all the neutral countries were notified officially that the entire United States of America zone was to be considered as dangerous and that

the German Reich could assume no responsibility for losses in combat in this zone.

COL. PHILLIMORE: That is quite a different case. Do not let us have any mistake about this. Are you saying that by that warning you were entitled to sink neutral ships anywhere in that zone without warning, sink on sight?

WAGNER: I did not quite catch the last few words.

COL. PHILLIMORE: Are you suggesting that you were entitled to sink at sight neutral shipping anywhere in that zone, as from 24 November?

WAGNER: I am of the opinion that we were justified from that period of time onwards in having no special consideration for neutral shipping. If we had made exceptions in our orders to our U-boats, it would have meant in every case that they could not have sunk enemy ships without warning.

COL. PHILLIMORE: It is not a question of any special consideration. Do you say that you became entitled to sink at sight any neutral ship, or sink it deliberately, whether you recognized it as neutral or not?

THE PRESIDENT: Surely you can answer that question "yes" or "no."

WAGNER: Yes, I am of that opinion.

COL. PHILLIMORE: Will you tell me how that squares with the submarine rules?

WAGNER: I do not feel competent to give a legal explanation of these questions because that is a matter of international law.

COL. PHILLIMORE: At any rate, that is what you proceeded to do, is it not? You proceeded to sink neutral ships at sight and without warning anywhere in that zone?

WAGNER: Yes; not just anywhere in this zone, but in the operational zones stipulated by us neutral ships were...

COL. PHILLIMORE: But wherever you could—wherever you could?

WAGNER: In the operational zones stipulated by us we sank neutral ships without warning, for we were of the opinion that in this case we were concerned with secured zones near the enemy coast which could no longer be considered the open sea.

COL. PHILLIMORE: And that is what you desired to do at the very start of the war, was it not? That is what you decided to do?

WAGNER: From the beginning of the war we decided to adhere strictly to the London Agreement.

COL. PHILLIMORE: Would you look at the document which was put in yesterday? My Lord, it is D-851. It is put in as GB-451. It is a memorandum of 3 September.

THE PRESIDENT: Where is it?

COL. PHILLIMORE: My Lord, it was the only new document that Sir David Maxwell-Fyfe put in in cross-examination.

[Turning to the witness.] Would you look at the third paragraph:

"The Navy has arrived at the conclusion that the maximum damage to England can be achieved with the forces available only if the U-boats are permitted an unrestricted use of arms without warning against enemy and neutral shipping in the prohibited area indicated on the enclosed map."

Do you still say that you did not intend from the start of the war to sink neutral shipping without warning as soon as you could get Hitler to agree to let you do so? Do you still say that?

WAGNER: Yes, absolutely. In this document, in the first paragraph, it says:

"In the attached documents sent to the Navy by the OKW the question of unrestricted U-boat warfare against England is discussed."

I cannot judge these documents if they are not submitted to me.

COL. PHILLIMORE: You were in the general staff at that time. You were in charge of the Department IA. This point of view must have been put forward by your department?

WAGNER: Yes. I have said already that we had decided, after consulting with the Foreign Office, to adhere strictly to the London Agreement until we had proof that English merchant shipping was navigated militarily and was being used for military purposes. Here we are apparently concerned solely with information, with an exchange of opinions with the Foreign Office . . .

COL. PHILLIMORE: I did not ask for your general view on the document. We can read that for ourselves. Your object was to terrorize the small neutrals and frighten them from sailing on their ordinary lawful occasions. Is that not right?

WAGNER: No.

COL. PHILLIMORE: And is that not why in the orders you issued in January of 1940 you excepted the larger countries from this "sink at sight" risk? Would you look at Document C-21. That is GB-194, at Page 30 of the Prosecution document book in English; Pages 59 and 60 in the German. Now, just look at the second entry on Page 5, 2 January 1940: "Report by IA." That is you, is it not? That was you, was it not?

WAGNER: Yes, but I cannot find the point which you are quoting.

COL. PHILLIMORE: Page 5 of the original, under the date of 2 January 1940. Report by IA on directive of Armed Forces High Command, dated 30 December, referring to intensified measures in naval and air warfare in connection with Case Yellow:

> "Through this directive the Navy will authorize, simultaneously with the beginning of the general intensification of the war, the sinking by U-boats without any warning of all ships in those waters near the enemy coasts in which mines can be employed. In this case, for external consumption, the use of mines should be simulated. The behavior of, and use of weapons by, U-boats should be adapted to this purpose."

That has nothing to do with the arming of British merchant ships. That is not the reason that is given, is it? The reason is because it fitted in with your operations for Case Yellow.

WAGNER: I did not understand the last sentence.

COL. PHILLIMORE: You do not give as your reason that the British were arming their merchant ships. The reason you give is that it was necessary in connection with intensified measures for Case Yellow. Why is that?

FLOTTENRICHTER KRANZBÜHLER: The German translation is so inadequate that it is almost impossible to understand the question.

COL. PHILLIMORE: I will put the question to you again. The excuse for this directive is to be the intensification of measures in connection with Case Yellow. You notice, do you not, that nothing is said about the arming of British merchant ships as justifying this step? That is correct, is it not?

WAGNER: May I have time, please, to peruse these papers first?

COL. PHILLIMORE: Certainly. This was written by yourself, you know.

WAGNER: No, that was not written by me. This measure really came within the warning which was given to the neutrals on 24 November 1939.

COL. PHILLIMORE: Nothing is said about the warning of 24 November. If you were entitled, as you have told us, under that to sink neutral ships, there would not be any need for this special directive, would there?

WAGNER: No.

COL. PHILLIMORE: No. Now, let us just . . .

WAGNER: For military and political reasons we ordered that a hit by a mine was to be simulated, and that is a special point of this order.

COL. PHILLIMORE: And just before we leave that document, have a look at the entry on 18 January, will you? Have you got it? 18 January.

WAGNER: Yes.

COL. PHILLIMORE: That is the actual order for sinking without warning. You notice the last sentence: "Ships of the United States, Italy, Japan, and Russia are exempted from these attacks."

And then Spain is added in pencil. Is it not right that you were out to terrorize the small neutrals and to bully them, but you were not running any risks with the big ones?

WAGNER: No, that is not correct. The explanation is, of course, that one must take military disadvantages into the bargain if one can obtain political advantages for them.

COL. PHILLIMORE: Oh, yes, it was just entirely a question of how it paid you politically. That is all it was, was it not?

WAGNER: Of course, all military actions were strongly influenced by the political interests of one's own country.

COL. PHILLIMORE: And because the Danes and the Swedes were not in any position to make any serious protest, it did not matter sinking their ships at sight. That is right, is it not?

WAGNER: The motivation you give to this conduct is entirely incorrect.

COL. PHILLIMORE: Well, but what is the difference?

WAGNER: We sank the ships of all neutrals in these areas with the exception of those countries where we had a special political interest.

COL. PHILLIMORE: Yes, you had no special political interest at this time for Norway and Sweden and Denmark, so you sank their ships at sight. That is right, is it not?

WAGNER: We sank them because they entered this area despite warning.

COL. PHILLIMORE: Yes, but if a Russian ship or a Japanese ship did that, you would not sink it.

WAGNER: No, not at that period of time.

COL. PHILLIMORE: I just want to show you what you actually did. Would you look at Documents D-846 and 847?

My Lord, they are two new documents. They will be GB-452 and 453.

[Turning to the witness.] Will you look at the first of these, that is D-846? That is a telegram from your Minister at Copenhagen, dated 26 September 1939. That is before your first warning and before any of these zones had been declared. The second sentence:

"Sinking of Swedish and Finnish ships by our submarines has caused great anxiety here about Danish food transports to England."

You see, you had started sinking ships of the small neutrals right away in the first three weeks of the war, had you not?

WAGNER: In single cases, yes; but there was always a very special reason in those cases. I know that several incidents occurred with Danish and Swedish ships in which ships had turned against the U-boat and the U-boat in turn because of this resistance was forced to attack the ship.

COL. PHILLIMORE: You do not think it was because the blame could be put upon mines?

WAGNER: At this period not at all.

COL. PHILLIMORE: Look at the second telegram, if you would; 26 March 1940, again from the German Minister at Copenhagen. It is the first paragraph:

"The King of Denmark today summoned me to his presence in order to tell me what a deep impression the sinking of six Danish ships last week, apparently without warning, had made on him and on the whole country."

And then, passing on two sentences:

"I replied that the reason why the ships sank had not yet been clarified. In any case, our naval units always kept strictly to the Prize Regulations; but vessels sailing in enemy convoy or in the vicinity of the convoy took upon themselves all the risks of war. If there were any cases of sinking without warning, it seemed that they could be traced back to the German notifications made to date.

"At the same time I stressed the danger of the waters around the British coast, where neutral shipping would inevitably be involved in compromising situations on account of measures taken by the British. The King assured me emphatically that none of the Danish ships had sailed in convoy, but it would probably never be possible subsequently to clear up without possibility of doubt the incidents which had led to the sinking."

Have you any doubt that those six ships were sunk deliberately under your sink-at-sight policy?

WAGNER: Without checking the individual cases, I cannot answer this question; but I am of the opinion that possibly these ships were sunk in that area off the English coast where, because of heavy military defenses, there would no longer be any question of open sea.

COL. PHILLIMORE: Very well. We will come to an incident where I think I can supply you with the details. Would you look at Document D-807?

My Lord, that is a new document, it becomes GB-454.

[Turning to the witness.] You see, this document is dated 31 January 1940; and it refers to the sinking of three neutral ships, the *Deptford,* the *Thomas Walton,* and the *Garoufalia.* The document is in three parts. It first sets out the facts as they were known to you. The second part is a note to the Foreign Office, and the third is a draft reply for your Foreign Office to send to the neutral governments; and if you look at the end of the document you will see "IA"; it emanates from your department.

"It is proposed in replying to Norwegian notes to admit only the sinking by a German U-boat of the steamship *Deptford,* but to deny the sinking of the two other steamers."

Would you follow it.

"According to the data attached to the notes presented by the Norwegian Government, the grounds for suspecting a torpedo to have been the cause of the sinkings do in fact appear to be equally strong in all these cases. According to the Norwegian Foreign Minister's speech of 19 January, the suspicion in Norway of torpedoing by a German U-boat appears, however, to be strongest in the case of the steamship *Deptford,* whereas in the other two cases it is at least assumed that the possibility of striking mines can be taken into account; this is considered improbable in the case of the steamship *Deptford,* because other vessels had passed the same spot.

"The possibility that the steamship *Thomas Walton* struck a mine can be supported, since the torpedoing occurred towards evening and nothing was observed, and also because several explosions took place in the same area owing to misses by torpedoes.

"In the case of the steamship *Garoufalia,* a denial appears expedient, if only because a neutral steamer is concerned, which was attacked without warning. Since it was attacked by means of an electric torpedo, no torpedo wake could be observed."

Do you say in the face of that that you did not deceive the neutrals? That is the advice you were giving to the Defendant Raeder as his staff officer, is it not?

WAGNER: This memorandum did not emanate from me; it emanated from "Iia."

COL. PHILLIMORE: Where does it originate?

WAGNER: That is the assistant of the expert on international law.

COL. PHILLIMORE: You would not have seen it?

WAGNER: I do not recall this document.

COL. PHILLIMORE: Why do you say it emanated from "Iia?" It has "Ia" at the end of it.

WAGNER: If this memorandum was dispatched then I also saw it . . .

COL. PHILLIMORE: I will just read the next part of the note to remind you.

"The following facts have thus been ascertained:"—this is what you are writing to the Foreign Office—

"The steamer *Deptford* was sunk by a German U-boat on 13 December . . ."

I am sorry. I should have started earlier.

"It is suggested that Norwegian notes regarding the sinking of the steamships *Deptford, Thomas Walton,* and *Garoufalia* be answered somewhat in the following manner:

"As a result of the communication from the Norwegian Government, the matter of the sinking of the steamships *Deptford, Thomas Walton,* and *Garoufalia* has been thoroughly investigated. The following facts have thus been ascertained:

"The steamer *Deptford* was sunk by a German U-boat on 13 December, as it was recognized as an armed enemy ship. According to the report of the U-boat commander, the sinking did not take place within territorial waters but immediately outside. The German Naval Forces have strict instructions not to undertake any war operations within neutral territorial waters. Should the U-boat commander have miscalculated his position, as appears to be borne out by the findings of the Norwegian authorities, and should Norwegian territorial waters have been violated in consequence, the German Government regret this most sincerely. As a result of this incident, the German Naval Forces have once again been instructed unconditionally to respect neutral territorial waters. If a violation of Norwegian territorial waters has indeed occurred, there will be no repetition of it.

"As far as the sinking of the steamships *Thomas Walton* and *Garoufalia* is concerned, this cannot be traced to operations

by German U-boats, as at the time of the sinking none of them were in the naval area indicated."

And then there is a draft reply put forward which is on very much the same lines.

And you say in the face of that document that the German Navy never misled the neutrals?

WAGNER: The neutrals had been advised that in these areas dangers of war might be encountered. We were of the opinion that we were not obliged to tell them through which war measures these areas were dangerous, or through which war measures their ships were lost.

COL. PHILLIMORE: Is that really your answer to this document? This is a complete lie, is it not? You admit the one sinking that you cannot get away from. And you deny the others. You deny that there was a German U-boat anywhere near, and you are telling this Tribunal that you were justified in order to conceal the weapons you were using. Is that the best answer you can give?

WAGNER: Yes, certainly. We had no interest at all in letting the enemy know what methods we were using in this area.

COL. PHILLIMORE: You are admitting that one of them was sunk by a U-boat. Why not admit the other two as well? Why not say it was the same U-boat?

WAGNER: I assume that we were concerned with another area in which the situation was different.

COL. PHILLIMORE: What was the difference? Why did you not say, "One of our U-boats has made a mistake or disobeyed orders, and is responsible for all these three sinkings?" Or, alternatively, why did you not say, "We have given you fair warning, we are going to sink at sight anyone in this area. And what is your complaint?"

WAGNER: Obviously I did not consider it expedient.

COL. PHILLIMORE: It was considered expedient to deceive the neutrals. And you, an Admiral in the German Navy, told me you did not do that ten minutes ago. As a matter of fact, these three boats were all sunk by the same U-boat, were they not?

WAGNER: I cannot tell you that at the moment.

COL. PHILLIMORE: I say they were all sunk by *U-38*, and the dates of sinking were: the *Deptford* on 13 December, the *Garoufalia* on the 11th, and the *Thomas Walton* on the 7th. Do you dispute that?

WAGNER: I did not understand the last sentence.

COL. PHILLIMORE: Do you dispute those details, or do you not remember?

WAGNER: I cannot recall; but I actually believe it is impossible.

COL. PHILLIMORE: I will show you another instance of deceiving the neutrals, and this time it was your friends, the Spanish. Would you look at C-105?

My Lord, that is a new document; it becomes GB-455. It is an extract from the SKL War Diary for 19 December 1940.

[Turning to the witness.] You kept the SKL War Diary yourself at that time, did you not?

WAGNER: No, I did not keep it, but I signed it.

COL. PHILLIMORE: You signed it. Did you read it before you signed it?

WAGNER: The essential parts, yes.

COL. PHILLIMORE: You see, it reads: "News from the Neutrals," and it is headed "Spain":

> "According to a report from the naval attaché, Spanish fishing vessel was sunk by a submarine of unknown nationality between Las Palmas and Cape Juby. In the rescue boats the crew was subjected to machine gun fire. Three men badly wounded. Landed at Las Palmas on 18 December. Italians suspected. (Possibility it might have been *U-37*)."

Then on 20 December, the next day:

> "Commander, Submarine Fleet, will be informed of Spanish report regarding sinking of Spanish fishing vessel by submarine of unknown nationality on 16 December between Las Palmas and Cape Juby, and requested to conduct an investigation. On the responsibility of the Naval Operations Staff it is confirmed to our naval attaché in Madrid that, regarding the sinking, there is no question of a German submarine."

When you reported that, you thought it possible, did you not, that it might have been *U-37*; is that not so?

WAGNER: It seems to me that in the meantime it became known that it was not *U-37*.

COL. PHILLIMORE: I will read on. This is under date of 21 December:

> "*U-37* reports: a torpedo fired at a tanker of the *Kopbard* type (7329) ran off in a circle and probably hit an Amphitrite submarine in the tanker's convoy. Tanker burned out.

Spanish steamer *St. Carlos* (300) without distinguishing marks, through concentrated gunfire. Nine torpedoes left.

"Then *U-37* torpedoed French tanker *Rhône* and the submarine *Sfax* and sank the Spanish fishing vessel."

And then, if you will read the next entry.

"We shall continue to maintain to the outside world that there is no question of a German or Italian submarine in the sea area in question being responsible for the sinkings."

Do you still say that you did not deceive the neutrals?

WAGNER: This case is doubtless a deception, but I do not remember for what particular reason this deception was carried through.

COL. PHILLIMORE: But it is pretty discreditable, is it not? Do you regard that as creditable to the German Navy, that conduct?

WAGNER: No, this . . .

COL. PHILLIMORE: Did the Defendant Raeder sign the War Diary?

WAGNER: Yes.

COL. PHILLIMORE: Did you tell the Defendant Dönitz what answer you were giving to the Spaniards and the Norwegians?

WAGNER: That I do not recall.

COL. PHILLIMORE: He would get a copy, would he not?

WAGNER: I did not understand you.

COL. PHILLIMORE: You would send him a copy, would you not, of your note to the Foreign Office?

WAGNER: That is possible.

THE PRESIDENT: Colonel Phillimore, does the signature of the Defendant Raeder appear at the end of this document, C-105?

COL. PHILLIMORE: My Lord, I regret to say I have not checked that. But as the witness has said, the practice was that he was to sign the War Diary, and that the Commander-in-Chief was to sign it periodically.

Is that right, Witness?

WAGNER: Yes. On the next page, on 21 December my signature appears as well as those of Admiral Fricke, Admiral Schniewind, and Admiral Raeder.

DR. SIEMERS: Mr. President, I would be very grateful to the Prosecution if the documents which concern the Defendant Raeder would also be given to me, for it is relatively difficult for me to

follow the situation otherwise. I have received none of these documents.

COL. PHILLIMORE: I am extremely sorry, My Lord. That is my fault, and I will see that Dr. Siemers has the copies tonight.

THE PRESIDENT: We will adjourn now at this point until tomorrow morning.

[The Tribunal adjourned until 14 May 1946 at 1000 hours.]

ONE HUNDRED AND TWENTY-NINTH DAY

Tuesday, 14 May 1946

Morning Session

[The witness Wagner resumed the stand.]

COL. PHILLIMORE: Do you remember the sinking of the *Monte Corbea* in September 1942?

WAGNER: I have some recollection of it.

COL. PHILLIMORE: That was the ship in respect to which the Defendant Dönitz sent a telegram to the U-boat commander, threatening him with court-martial on his return because he had sunk the ship after recognizing it as a neutral. Now, in 1942 the friendship of Spain was very important to Germany, was it not?

WAGNER: I assume so.

COL. PHILLIMORE: You told us yesterday that Admiral Raeder was considering Mediterranean policy—recommending it. Now that was the reason, was it not, why the U-boat commander was threatened with court-martial, that it mattered in 1942 if you sank a Spanish ship?

WAGNER: No, that was not the reason. The reason was that the commander of the U-boat in question had obviously not acted according to the directives of the Commander of U-boats.

COL. PHILLIMORE: It did not matter in 1940 when you thought you were winning the war, but in September 1942 I suggest to you it became politically inexpedient to sink a Spanish ship; is that not right?

WAGNER: You will have to ask the political departments of the German Reich about that.

COL. PHILLIMORE: If that is the answer, do you think it is unfair to describe your attitude to the sinking of neutral ships as cynical and opportunist?

WAGNER: No, I reject that absolutely.

COL. PHILLIMORE: I want to ask you one or two questions about the witness Heisig. You spoke yesterday of a conversation in the jail here in the first week of December 1945.

WAGNER: In December 1945?

COL. PHILLIMORE: Yes. You knew at the time you spoke to Heisig that he was going to be called as a witness, did you not?

WAGNER: That could be assumed from his presence here at Nuremberg.

COL. PHILLIMORE: And you knew you were going to be called as a witness, did you not?

WAGNER: Yes.

COL. PHILLIMORE: Are you telling the Tribunal that you did not tell the defense lawyers about this conversation until quite recently?

WAGNER: I did not understand the sense of your question.

COL. PHILLIMORE: Are you telling the Tribunal that you did not report this conversation with Heisig to the defense lawyers until quite recently?

WAGNER: I think it was in February or March when I told the Defense Counsel about this conversation.

COL. PHILLIMORE: Now I just want to put the dates to you. The U-boat Commander Eck was sentenced to death on 20 October. Do you know that?

WAGNER: I did not know the date.

COL. PHILLIMORE: Death sentence was passed by the Commission on 21 November and he was executed on 30 November. That is to say he was executed before you had this conversation. Did you know that?

WAGNER: No. I just discovered that now.

COL. PHILLIMORE: At any rate, the witness Heisig knew it before he gave his evidence, did he not?

WAGNER: Obviously not. Otherwise, he would most likely have told me about it. Previously, he had for 10 days . . .

COL. PHILLIMORE: Will you just listen to a question and answer from his cross-examination. It is Page 2676 of the transcript (Volume V, Page 227). This is a question by Dr. Kranzbühler:

"In your hearing on 27 November were you not told that the death sentence against Eck and Hoffmann had already been set?"

Answer: "I do not know whether it was on 27 November. I know only that here I was told of the fact that the death sentence had been carried out. The date I cannot remember. I was in several hearings."

Now if that is right . . .

THE PRESIDENT: What date was that evidence given?

COL. PHILLIMORE: That was given on 14 January, My Lord; Page 2676 of the transcript (Volume V, Page 227).

WAGNER: I did not understand who gave this testimony.

COL. PHILLIMORE: The witness Heisig, when he gave evidence here in Court. So that whether or not he was deceived, as you suggest, before he gave his affidavit, he at least knew the true facts before he gave evidence here to the Tribunal?

WAGNER: Then he told an untruth to me.

COL. PHILLIMORE: Now, I want to ask you one question on the order of 17 September 1942. That is the order that you say you monitored in the naval war staff and saw nothing wrong with it. Did the Defendant Raeder see that order?

WAGNER: That I cannot say with certainty.

COL. PHILLIMORE: You were Chief of Staff Operations at that time?

WAGNER: Yes, but one cannot expect me to remember every incident in 6 years of war.

COL. PHILLIMORE: Oh, no, but this was an important order, was it not?

WAGNER: Certainly, but there were many important orders in the course of 6 years.

COL. PHILLIMORE: Would you normally show an important operational order to the Commander-in-Chief?

WAGNER: It was my task to submit all important matters to the Chief of Staff of the Naval Operations Staff, and he decided which matters were to be submitted to the Grossadmiral.

COL. PHILLIMORE: Are you saying that you would not have shown this to the Chief of Staff?

WAGNER: No. I am sure he had knowledge of it.

COL. PHILLIMORE: Have you any doubt that this order would have been shown to Admiral Raeder?

WAGNER: That I cannot say; I do not recall whether he received it.

COL. PHILLIMORE: Now I want to ask one or two questions about your tasks as Admiral, Special Duties. You became Admiral, Special Duties, in June 1944, is that right?

WAGNER: Yes.

COL. PHILLIMORE: And from then on you attended the important conferences with Admiral Dönitz and in his absence represented him, did you not?

WAGNER: I never participated in any discussions as his representative. Dönitz was represented by the Chief of the SKL.

COL. PHILLIMORE: Now at that stage of the war all questions were important insofar as they affected military operations in one way or another, were they not?

WAGNER: At every stage of the war all military questions are of importance.

COL. PHILLIMORE: What I am putting to you is that at that stage of the war the importance of all questions chiefly depended on how they affected the military situation.

WAGNER: Yes, that, I imagine, one has to admit.

COL. PHILLIMORE: And during that period Germany was virtually governed by the decisions taken at the Führer's headquarters, was it not?

WAGNER: Yes.

COL. PHILLIMORE: Now I want you to look at a record of one of Admiral Dönitz' visits—My Lord, this is D-863; it is a new document and becomes Exhibit GB-456.

Now that is a record of a visit to the Führer's headquarters on 28 and 29 of August 1943. You were not there yourself, but your immediate superior Vice Admiral Meisel accompanied Admiral Dönitz, and the names of the Naval Delegation are set out at the top of the page: Admiral Dönitz, Vice Admiral Meisel, Kapitän zur See Rehm, *et cetera*. And your program as set out was: After your arrival, at 1130, conversation with Commander-in-Chief Navy, Commander-in-Chief Luftwaffe; 1300, situation conference with the Führer, closing with a further conversation between the Commander-in-Chief Navy and the Commander-in-Chief Luftwaffe; then at 1600 the Commander-in-Chief Navy left. After that Admiral Meisel had a conversation with Ambassador Ritter of the Foreign Office. Then a conversation with General Jodl, an evening conference with the Führer, and then at midnight a conference with Reichsführer-SS Himmler. On the next day the usual conference with the Führer; then a conference with the Chief of the General Staff of the Air Force. And then he left.

Now, is that a fair sample of what went on whenever Admiral Dönitz visited; that he had conversations, various conferences with other officials?

WAGNER: That is a typical example of a visit of the Grossadmiral at the headquarters, insofar as he participated only in situation conferences with the Führer, and in addition he had military discussions with the Commander-in-Chief of the Air Force.

COL. PHILLIMORE: And that shows, does it not, the whole business of government being carried on at the Führer's headquarters?

WAGNER: No, not at all. I have already said the Grossadmiral only participated at the situation conference, that is, the military situation conference with the Führer and beyond that one or even two discussions with the Commander-in-Chief of the Air Force.

COL. PHILLIMORE: And with General Jodl or Field Marshal Keitel, somebody from the Foreign Office, and so on?

WAGNER: Otherwise the Grossadmiral had no discussions of any sort, as can be seen from the document, for on 28 August at 1600 hours he returned by air. The other discussions were discussions of the Chief of Staff of the SKL, the . . .

COL. PHILLIMORE: But I was putting it to you that this was a typical visit. If Admiral Dönitz had not left, he would have had these other conversations and not Admiral Meisel, is that not right?

WAGNER: No, not at all. The Chief of Staff of the SKL very rarely had the opportunity of coming to headquarters; and according to the record here, he obviously used his opportunity to contact a few of the leading . . .

COL. PHILLIMORE: I do not want to waste time with it. I suggest to you that when Admiral Dönitz went there he normally saw many other ministers and conversed with them on any business affecting the Navy.

WAGNER: Naturally, the Admiral discussed all questions affecting the Navy with those who were concerned with them.

COL. PHILLIMORE: Now, I want to ask you one or two questions on the minutes with regard to the Geneva Convention—that is C-158, GB-209, Page 69 of the English Prosecution's document book, or Page 102 of the German. Will you look at Page 102.

Now you, as you told us yesterday, initialed those minutes, did you not; and a copy was marked to you, is that not right?

WAGNER: Yes, I signed these minutes.

COL. PHILLIMORE: Yes; were they accurate?

WAGNER: They contained salient points about the things which had happened at headquarters.

COL. PHILLIMORE: They were an accurate record, were they?

WAGNER: Undoubtedly I believed that things had taken place as they are recorded here.

COL. PHILLIMORE: Now, did you agree with Admiral Dönitz' advice that it would be better to carry out the measures considered

necessary without warning and at all costs to save face with the outer world? Did you agree with that?

WAGNER: I already explained yesterday, clearly and unequivocally, how I interpreted this sentence which was formulated by me; and I have nothing to add to that statement. In the sense which I stated yesterday, I agree completely.

COL. PHILLIMORE: And the step which Hitler wanted to take was to put prisoners of war in the bombed towns, was it not? Was that not the breach of the Convention that he wanted to make?

WAGNER: No, it was the renunciation of all the Geneva agreements; not only the agreement about prisoners of war, but also the agreement on hospitals ships, the Red Cross agreement, and other agreements which had been made at Geneva.

COL. PHILLIMORE: Then what were the measures considered necessary which could be taken without warning? Just look at that sentence.

WAGNER: I do not understand that.

COL. PHILLIMORE: Look at the last sentence, "It would be better to carry out the measures considered necessary." What were those measures?

WAGNER: They were not discussed at all.

COL. PHILLIMORE: Do you see any difference between the advice which Admiral Dönitz was giving them and the advice which you described as the rather romantic ideas of a young expert on the document about sinking without warning at night? Let me put it to you; what the naval officer said on the Document C-191 was: "Sink without warning. Do not give written permission. Say it was a mistake for an armed merchant cruiser . . ."

We have Admiral Dönitz saying, "Do not break the rules, tell no one about it and at all costs save face with the world."

Do you see any difference?

WAGNER: I already testified yesterday that the difference is very great. Admiral Dönitz opposed the renunciation of the Geneva Convention and said that even if measures to intimidate deserters or counter measures against bombing attacks on cities were to be taken, the Geneva Convention should not be renounced in any case.

COL. PHILLIMORE: Now, I want to put to you a few questions about prisoners of war. So far as naval prisoners of war were concerned, they remained in the custody of the Navy, did they not?

WAGNER: I am not informed about the organization of prisoner-of-war camps. According to my recollection they were first put into a naval transit camp. Then they were sent to other camps; but I

do not know whether these camps were under the jurisdiction of the Navy or the OKW.

COL. PHILLIMORE: Have you not seen the defense documents about the Camp Marlag telling us how well they were treated? Have you not seen them?

WAGNER: No.

COL. PHILLIMORE: Now, naval prisoners, when they were captured by your forces, their capture was reported to the naval war staff, was it not?

WAGNER: Such captures were, in general, reported as part of the situation reports.

COL. PHILLIMORE: Now, do you remember the Commando Order of 18 October 1942?

WAGNER: Yes.

COL. PHILLIMORE: You actually signed the order passing that Führer Order on to commands, did you not?

WAGNER: Yes.

COL. PHILLIMORE: My Lord, the document is C-179, and that was put in as United States Exhibit 543 (USA-543). It is in that bundle that Sir David Maxwell-Fyfe handed to the Tribunal when cross-examining the defendant. I think it is either the last or very near to the last document in the bundle.

[Turning to the witness.] Did you approve of that order?

WAGNER: I regretted that one had to resort to this order, but in the first paragraph the reasons for it are set forth so clearly that I had to recognize its justification.

COL. PHILLIMORE: You knew what handing over to the SD meant, did you not? You knew that meant shooting?

WAGNER: No, that could have meant a lot of things.

COL. PHILLIMORE: What did you think it meant?

WAGNER: It could have meant that the people were interrogated for the counterintelligence; it could have meant that they were to be kept imprisoned under more severe conditions, and finally it could have meant that they might be shot.

COL. PHILLIMORE: But you had no doubt that it meant that they might be shot, had you?

WAGNER: The possibility that they might be shot undoubtedly existed.

COL. PHILLIMORE: Yes, and did that occur to you when you signed the order sending it on to commanders?

WAGNER: I would like to refer to Paragraph 1 of this order, where it . . .

COL. PHILLIMORE: Do you mind answering the question? Did it occur to you that they might be shot when you signed the order sending it on to commanders?

WAGNER: Yes, the possibility was clear to me.

DR. SIEMERS: Mr. President, the witness was asked whether he approved of this order. I do not think that Colonel Phillimore can cut off the witness' answer by saying that he may not refer to Paragraph 1 of the order. I believe that Paragraph 1 of the order is of decisive importance for this witness. Mr. President, the witness Admiral Wagner . . .

THE PRESIDENT: You have an opportunity of re-examining the witness.

DR. SIEMERS: Yes.

THE PRESIDENT: Then why do you interrupt?

DR. SIEMERS: Because Colonel Phillimore has interrupted the answer of the witness and I believe that even in cross-examination the answer of the witness must be at least heard.

THE PRESIDENT: Well, the Tribunal does not agree with you.

COL. PHILLIMORE: My Lord, I understood him to have already made some point that the defendant made once. I only interrupted him when he sought to make it again.

[Turning to the witness.] I put my question once again. When you signed the order sending this document on to lower commanders, did it occur to you then that these men would probably be shot?

WAGNER: The possibility that these people who were turned over to the SD might be shot was clear to me.

COL. PHILLIMORE: Was it also . . .

WAGNER: I have not finished yet. But only those people who had not been captured by the Wehrmacht were to be handed over to the SD.

COL. PHILLIMORE: Did it also occur to you that they would be shot without trial?

WAGNER: Yes, that can be concluded from the order.

COL. PHILLIMORE: And what do you mean by saying that it only referred to those not captured by the Wehrmacht? Would you look at Paragraph 3.

"From now on all enemies on so-called Commando missions in Europe or Africa, challenged by German troops, even if they are to all appearances soldiers in uniform or demolition

troops, whether armed or unarmed, in battle or in flight, are to be slaughtered to the last man. It does not make any difference whether they landed from ships or airplanes for their actions or whether they were dropped by parachutes. Even if these individuals when found should apparently seem to give themselves up, no pardon is to be granted them on principle. In each individual case full information is to be sent to the OKW for publication in the OKW communiqué."

Are you saying it did not refer to men captured by the military forces?

WAGNER: Yes, I maintain that statement. There is nothing in the entire paragraph which says these men who were captured by the Wehrmacht were to be turned over to the SD. That was the question.

COL. PHILLIMORE: Now, read on in the last paragraph.

"If individual members of such Commandos, such as agents, saboteurs, *et cetera,* fall into the hands of the military forces by some other means, for example through the Police in occupied territories, they are to be handed over immediately to the SD."

WAGNER: Yes. It is expressly stated here that only those people are to be turned over to the SD who are not captured by the Wehrmacht but by the Police; in that case the Wehrmacht could not take them over.

COL. PHILLIMORE: Indeed it is not. That capture by the Police is given as one possible instance. But you know, you know in practice, do you not, that there were several instances where Commandos were captured by the Navy and handed over to the SD under this order? Do you not know that?

WAGNER: No.

COL. PHILLIMORE: Well, let me just remind you. Would you look at Document 512-PS.

That is also in that bundle, My Lord, as United States Exhibit 546 (USA-546). It is the second document. According to the last sentence of the Führer Order of 18 October:

"Individual saboteurs can be spared for the time being in order to keep them for interrogation. Importance of this measure was proven in the cases of Glomfjord, the two-man torpedo at Trondheim, and the glider plane at Stavanger, where interrogations resulted in valuable knowledge of enemy intentions." And then it goes on to another case, the case of the Geronde.

Do you say that you do not remember the two-man torpedo attack on the *Tirpitz* in Trondheim Fjord?

WAGNER: No, no. I am not asserting that I do not remember it. I do remember it.

COL. PHILLIMORE: Yes. Did you not see in the Wehrmacht communiqué after that attack what had happened to the man who was captured?

WAGNER: I cannot recall it at the moment.

COL. PHILLIMORE: Let me just remind you. One man was captured, Robert Paul Evans, just as he was getting across the Swedish border, and he was—that attack took place in October 1942—he was executed in January 1943, on 19 January 1943.

My Lord, the reference to that might be convenient; it is Document UK-57, which was put in as Exhibit GB-64.

[Turning to the witness.]

Do you say that you do not remember seeing any report of his capture or of his shooting or of his interrogation?

WAGNER: No, I believe I remember that, but this man . . .

COL. PHILLIMORE: Now what do you remember? Just tell us what you remember. Do you remember seeing his capture reported?

WAGNER: I no longer know that. I remember there was a report that a considerable time after the attack on the *Tirpitz* a man was captured, but to my knowledge not by the Navy.

COL. PHILLIMORE: Would you look at the Document D-864, a sworn statement.

My Lord, through some error I am afraid I have not got it here. May I just put the facts, and if necessary put in the document if I can produce it in time.

[Turning to the witness.] I suggest to you that Robert Paul Evans, after his capture, was personally interrogated by the Commander-in-Chief, Navy, of the Norwegian North Coast. Do you say you know nothing of that?

WAGNER: Yes, I maintain that I do not remember it.

COL. PHILLIMORE: You see, this was the first two-man torpedo attack by the British Navy against the German naval forces, was it not? That is so, is it not?

WAGNER: Yes, that is possible.

COL. PHILLIMORE: No, but you must know that, do you not? You were Chief of Staff Operations at the time.

WAGNER: I believe it was the first time.

COL. PHILLIMORE: Do you say that the results of that important interrogation were not reported to you in the naval war staff?

WAGNER: They were certainly reported, but nevertheless I cannot remember that the Commanding Admiral in Norway actually conducted this interrogation.

COL. PHILLIMORE: Did you see a report by that admiral?

WAGNER: I do not know where it originated, but I am certain I saw a report of that kind.

COL. PHILLIMORE: Was it clear to you that that report was based on interrogation?

WAGNER: Yes, I think so.

COL. PHILLIMORE: And you say you did not know that this man Evans, some two months after his capture, was taken out and shot under the Führer order?

WAGNER: Yes, I maintain that I do not remember that.

COL. PHILLIMORE: I will put you another instance. Do you remember the Bordeaux incident in December 1942?

That is 526-PS, My Lord. That is also in the bundle. It was originally put in as United States Exhibit 502 (USA-502).

[Turning to the witness.] I am sorry; it is the Toftefjord incident I am putting to you, 526-PS. Do you remember this incident in Toftefjord in March 1943?

WAGNER: I do remember that about this time an enemy cutter was seized in a Norwegian fjord.

COL. PHILLIMORE: Yes. And did you not see in the Wehrmacht communiqué "Führer Order executed"?

WAGNER: If it said so in the Wehrmacht communiqué then I must have read it.

COL. PHILLIMORE: Have you any doubt that you knew that the men captured in that attack were shot, and that you knew it at the time?

WAGNER: Apparently he was shot while being captured.

COL. PHILLIMORE: If you look at the document:

"Enemy cutter engaged. Cutter blown up by the enemy. Crew, 2 dead men, 10 prisoners."

Then look down:

"Führer Order executed by SD."

That means those 10 men were shot, does it not?

WAGNER: It must mean that.

COL. PHILLIMORE: Yes. Now I just put to you the document that I referred to on the Trondheim episode, D-864. This is an

Afternoon Session

THE PRESIDENT: You have finished, have you not, Dr. Kranzbühler, with this witness?

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: The witness can retire.

[The witness left the stand.]

FLOTTENRICHTER KRANZBÜHLER: And now I should like to call my next witness, Admiral Godt.

[The witness Godt took the stand.]

THE PRESIDENT: Will you state your full name?

EBERHARD GODT (Witness): My name is Eberhard Godt.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

You may sit down.

FLOTTENRICHTER KRANZBÜHLER: Admiral Godt, when did you enter the Navy as an officer cadet?

GODT: On 1 July 1918.

FLOTTENRICHTER KRANZBÜHLER: How long have you been working with Admiral Dönitz, and in what position?

GODT: Since January 1938; first of all as First Naval Staff Officer attached to the Commander, U-boats, and immediately after the beginning of the war as Chief of the Operations Department.

FLOTTENRICHTER KRANZBÜHLER: Chief of the Operations Department with the Chief of Submarines?

GODT: Yes, attached to the Chief of Submarines, later Flag Officer, U-boats.

FLOTTENRICHTER KRANZBÜHLER: Did you collaborate since 1938 in the drafting of all operational orders worked out by the staff of the Flag Officer, U-boats?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: How many officers were on this staff at the beginning of the war?

GODT: At the beginning of the war there were four officers, one chief engineer, and two administrative officers on that staff.

FLOTTENRICHTER KRANZBÜHLER: I shall now show you Document GB-83 of the Prosecution's document book Page 16, which

is a letter from Commander, U-boats, dated 9 October 1939. It refers to bases in Norway. How did this letter originate?

GODT: At that time I was visiting the Naval Operations Staff in Berlin on other business. On the occasion of that visit I was asked whether Commander, U-boats, was interested in bases in Norway and what demands should be made in that connection.

FLOTTENRICHTER KRANZBÜHLER: Were you informed how those bases in Norway were to be secured for the use of the German Navy?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution has quoted an extract from the War Diary of the Naval Operations Staff dating from the same period.

Mr. President, I am thinking of the extract reproduced on Page 15 of the document book.

[Turning to the witness.] That extract contains four questions. Questions (a) and (d) deal with technical details regarding bases in Norway, whereas (b) and (c) deal with the possibility of obtaining such bases against the will of the Norwegians, and the question of defending them.

Which of these questions was put to you?

GODT: May I ask you to repeat the questions in detail first of all.

FLOTTENRICHTER KRANZBÜHLER: The first question is: Which places in Norway can be considered for bases?

GODT: That question was put.

FLOTTENRICHTER KRANZBÜHLER: Will you show me from the letter from Commander, U-boats, whether the question was answered and where it is answered?

GODT: The question was answered under Number 1 (c) at the end of Number 1.

FLOTTENRICHTER KRANZBÜHLER: There it says, "Trondheim or Narvik are possible places."

GODT: Yes, that is right.

FLOTTENRICHTER KRANZBÜHLER: Question Number 2 is: "If it is impossible to obtain bases without fighting, can it be done against the will of the Norwegians by the use of military force?" Was that question put?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: Can you tell me if the question was answered in the letter from Commander, U-boats?

GODT: This question was not answered.

FLOTTENRICHTER KRANZBÜHLER: The third question is: "What are the possibilities of defense after occupation?" Was that question put to you?

GODT: No, that question was not put.

FLOTTENRICHTER KRANZBÜHLER: Is it replied to in the letter?

GODT: III-d refers to the necessity of adopting defense measures.

FLOTTENRICHTER KRANZBÜHLER: Is that reference connected with the fourth question I put to you now: "Will the harbors have to be developed to the fullest extent as bases, or do they already offer decisive advantages as possible supply points?"

GODT: These two questions are not connected.

FLOTTENRICHTER KRANZBÜHLER: Was that fourth question put to you?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: Was it answered?

GODT: Not in this letter.

FLOTTENRICHTER KRANZBÜHLER: What is the significance of the figures II and III? Do they not answer the question of whether these ports must be developed as bases or whether they can be used just as supply points?

GODT: They indicate what was thought necessary in order to develop them to the fullest extent as bases.

FLOTTENRICHTER KRANZBÜHLER: Will you please read the last sentence of the document? There it says, "Establishment of a fuel supply point in Narvik as an alternative supply point." Is that not a reply to the question asking whether a supply point is enough?

GODT: Yes; I had overlooked that sentence.

FLOTTENRICHTER KRANZBÜHLER: Can I sum up, therefore, by saying that the first and fourth questions were put to you and answered by you, whereas questions 2 and 3 were not put to you and not answered by you?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: In the War Diary of the Naval Operations Staff there is a note which says, "Commander, U-boats, considers such ports extremely valuable even as temporary supply and equipment bases for Atlantic U-boats." Does that note mean that Admiral Dönitz was working on this question before your visit to Berlin? Or what was the reason for the note?

GODT: That was my own opinion, which I was entitled to give in my capacity as Chief of the Operations Department.

FLOTTENRICHTER KRANZBÜHLER: Was that the first time that plans for bases were brought to your notice?

GODT: No. We had been considering the question of whether the supply position for U-boats could be improved by using ships—in Iceland, for instance.

FLOTTENRICHTER KRANZBÜHLER: Were these considerations in any way connected with the question whether one ought to start a war against the country concerned?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: I shall now show you Document GB-91. This appears on Page 18 of the Prosecution's document book. It is an operational order issued by Commander, U-boats, on 30 March 1940 and dealing with the Norwegian enterprise. Is it true, that this is your operational order?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: How many days before the beginning of the Norwegian action was that order released?

GODT: Approximately ten days.

FLOTTENRICHTER KRANZBÜHLER: Paragraph II, Section 5, contains the following sentence: "While entering the harbor and until the troops have been landed, the naval forces will probably fly the British naval ensign, except in Narvik." Is that an order given by Commander, U-boats, to the submarines under his command?

GODT: No. That passage appears under the heading: "Information on our own combat forces."

FLOTTENRICHTER KRANZBÜHLER: And what is the meaning of this allusion?

GODT: It means that U-boats were informed that in certain circumstances our own naval units might fly other flags.

FLOTTENRICHTER KRANZBÜHLER: Why was that necessary?

GODT: It was necessary so as to prevent possible mistakes in identity.

FLOTTENRICHTER KRANZBÜHLER: Are there any other references to mistakes in identity in this order?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: Where?

GODT: In Paragraph IV, Section 5.

FLOTTENRICHTER KRANZBÜHLER: Will you please read it?

GODT: There it says, "Beware of confusing our own units with enemy forces."

FLOTTENRICHTER KRANZBÜHLER: Only that sentence. Did this order instruct U-boats to attack Norwegian forces?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: Will you please indicate what the order says about that?

GODT: IV, a2 states, "Only enemy naval forces and troop transports are to be attacked."

FLOTTENRICHTER KRANZBÜHLER: What was meant by "enemy" forces?

GODT: "Enemy" forces were British, French, and Russian—no, not Russian. It goes on: "No action is to be taken against Norwegian and Danish forces unless they attack our own forces."

FLOTTENRICHTER KRANZBÜHLER: Will you please look at Paragraph VI-c?

GODT: Paragraph VI says: "Steamers may only be attacked when they have been identified beyond doubt as enemy steamers and as troop transports."

FLOTTENRICHTER KRANZBÜHLER: Was Commander, U-boats, informed of the political action taken with regard to incidents caused by submarines?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: In what way?

GODT: U-boats had orders to report immediately by wireless in the case of incidents, and to supplement the report later.

FLOTTENRICHTER KRANZBÜHLER: I do not think you quite understood my question. I asked you, was Commander, U-boats, informed as to how an incident caused by a submarine would later on be settled with a neutral government?

GODT: No, not as a rule.

FLOTTENRICHTER KRANZBÜHLER: Can you remember any individual case where he was informed?

GODT: I remember the case of the Spanish steamer *Monte Corbea*. Later on I learned that Spain had been promised reparations. I cannot remember now whether I received the information through official channels or whether I just heard it accidentally.

FLOTTENRICHTER KRANZBÜHLER: I should now like to establish the dates of certain orders which I have already presented to the Tribunal. I shall show you Standing Order Number 171,

which is on Page 159 of Volume III of the document book. What is the date on which that order was issued?

GODT: I shall have to look at it first.

FLOTTENRICHTER KRANZBÜHLER: Please do.

GODT: That order must have originated in the winter of 1939-1940. Probably 1939.

FLOTTENRICHTER KRANZBÜHLER: On what do you base that conclusion?

GODT: I base it on the reference made in 4a to equipment for depth charges. This was taken for granted at a later stage. I also gather it from the reference made in 5b to the shifting of masts and colored lights, something which was formulated then for the first time.

FLOTTENRICHTER KRANZBÜHLER: Can you tell us the exact month in 1939?

GODT: I assume that it was November.

FLOTTENRICHTER KRANZBÜHLER: I am now going to show you another order, Standing War Order Number 122. It appears on Page 226 in Volume IV of my document book. Up to now all we know is that this order was issued before May 1940. Can you give us a more exact date?

GODT: This order must have been issued about the same time as the first, that is to say, about November 1939.

FLOTTENRICHTER KRANZBÜHLER: Thank you. How was the conduct of U-boat warfare by Commander, U-boats, organized in practice? Will you explain that to us?

GODT: All orders based on questions of international law, *et cetera,* originated with the Naval Operations Staff. The Naval Operations Staff also reserved for itself the right to determine the locality of the center of operations—for instance, the distribution of U-boats in the Atlantic Theater, the Mediterranean Theater, and the North Sea Theater. Within these various areas U-boat operations were, generally speaking, entirely at the discretion of Commander, U-boats.

FLOTTENRICHTER KRANZBÜHLER: Were the standing orders for U-boats given verbally or in writing?

GODT: In writing.

FLOTTENRICHTER KRANZBÜHLER: Were there not verbal orders as well?

GODT: Verbal instructions personally issued by Commander, U-boats, played a special part and amounted to personal influence

on commanders, as well as to explanations of the contents of written orders.

FLOTTENRICHTER KRANZBÜHLER: On what occasions was that personal influence exerted?

GODT: Particularly when reports were being made by the commanders after each action. There must have been very few commanders who did not make a personal and detailed report to Commander, U-boats, after an action.

FLOTTENRICHTER KRANZBÜHLER: Was it possible for written orders to be changed in the course of verbal transmission, or even twisted to mean the opposite?

GODT: Such a possibility might have existed, but it never actually happened.

FLOTTENRICHTER KRANZBÜHLER: When they made these verbal reports, could the commanders risk expressing opinions which were not those of Commander, U-boats?

GODT: Absolutely. Commander, U-boats, even asked his commanders in so many words to give him their personal opinions in every case, so that he could maintain direct personal contact with them and thus remain in close touch with events on the front, so that he could put matters right, where necessary.

FLOTTENRICHTER KRANZBÜHLER: Was this personal contact used for the verbal transmission of shady orders?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution holds that an order—apparently a verbal order—existed, prohibiting the entry in the log of measures considered dubious or unjustifiable from the point of view of international law. Did such a general order exist?

GODT: No; there was no general order. In certain individual cases—I can remember two—an order was given to omit certain matters from the log.

FLOTTENRICHTER KRANZBÜHLER: Which cases do you remember?

GODT: The first was the case of the *Athenia*; and the second was the sinking of a German boat, which was coming from Japan through the blockade, by a German submarine.

FLOTTENRICHTER KRANZBÜHLER: Before I ask you to give me details of that, I should like to know the reason for omitting such matters from the log.

GODT: It was done for reasons of secrecy. U-boat logs were seen by a great many people: First, in the training stations of the

U-boat service itself; and, secondly, in numerous offices of the High Command. Special attention had therefore to be paid to secrecy.

FLOTTENRICHTER KRANZBÜHLER: How many copies of each U-boat war log were made?

GODT: I should say six to eight copies.

FLOTTENRICHTER KRANZBÜHLER: Did the omission of such an item from the log mean that all documentary evidence was destroyed in every office; or did certain offices keep these documents?

GODT: These records were received by Commander, U-boats, and probably by the Naval Operations Staff as well.

FLOTTENRICHTER KRANZBÜHLER: Was there a standing war order prescribing treatment of incidents?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: What were the contents?

GODT: It stated that incidents must be reported immediately by wireless and that a supplementary report must be made later, either in writing or by word of mouth.

FLOTTENRICHTER KRANZBÜHLER: Does this standing order contain any allusion to the omission of such incidents from the log?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: Will you please tell me now how this alteration was made in the log in the case of the *Athenia*?

GODT: In the case of the *Athenia* Oberleutnant Lemp reported on returning that he had torpedoed this ship, assuming it to be an auxiliary cruiser. I cannot now tell you exactly whether this was the first time I realized that such a possibility existed or whether the idea that this might possibly have been torpedoed by a German submarine had already been taken into consideration. Lemp was sent to Berlin to make a report and absolute secrecy was ordered with regard to the case.

FLOTTENRICHTER KRANZBÜHLER: By whom?

GODT: By the Naval Operations Staff, after a temporary order had been issued in our department. I ordered the fact to be erased from the war log of the U-boat.

FLOTTENRICHTER KRANZBÜHLER: And that, of course, was on the orders of Admiral Dönitz?

GODT: Yes, or I ordered it on his instructions.

FLOTTENRICHTER KRANZBÜHLER: Did you participate in the further handling of this incident?

GODT: Only with regard to the question of whether Lemp should be punished. As far as I remember, Commander, U-boats, took only disciplinary action against him because it was in his favor that the incident occurred during the first few hours of the war, and it was held that in his excitement he had not investigated the character of the ship as carefully as he might have done.

FLOTTENRICHTER KRANZBÜHLER: Did I understand you correctly as saying that the detailed documentary evidence in connection with the sinking of the *Athenia* was retained by both Commander, U-boats, and, you believe, the Naval Operations Staff?

GODT: I can say that with certainty only as far as Commander, U-boats, is concerned. That is what happened in this case.

FLOTTENRICHTER KRANZBÜHLER: You mentioned a second case just now where a log book had been altered. Which case was that?

GODT: That incident was as follows: A German blockade breaker, that is to say, a merchant vessel on its way back from Japan, was accidentally torpedoed by a German submarine and sunk in the North Atlantic. This fact was omitted from the log.

FLOTTENRICHTER KRANZBÜHLER: So it was only a question of keeping matters secret from German offices?

GODT: Yes. The British learned the facts from lifeboats as far as I know; and these facts were to be concealed from the crews of other blockade-breaking vessels.

FLOTTENRICHTER KRANZBÜHLER: Documents submitted to the Tribunal by the Defense show that until the autumn of 1942, German U-boats took steps to rescue crews as far as was possible without prejudicing the U-boat's safety and without interfering with their own assignment. Does this agree with your own experiences?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: I should now like to put a few questions to you regarding the so-called *Laconia* order which still require clarification. I refer to Document GB-199. As you know, the Prosecution calls this order an order to kill survivors. Who formulated this order?

THE PRESIDENT: Where is it?

FLOTTENRICHTER KRANZBÜHLER: It is the document book of the Prosecution on Page 36, Mr. President.

GODT: I cannot now tell you that for certain. Generally speaking, such an order was discussed by Commander, U-boats, the First Naval Staff Officer, and myself; Commander, U-boats, decided

on the general terms of the order and then it was formulated by one of us. It is quite possible that I myself worded the order.

FLOTTENRICHTER KRANZBÜHLER: But, at any rate, Admiral Dönitz signed it, did he not?

GODT: He must have; yes.

FLOTTENRICHTER KRANZBÜHLER: Admiral Dönitz thought that he remembered that you and Captain Hessler were opposed to this order. Can you remember this, too; and if so, why were you against it?

GODT: I do not remember that.

FLOTTENRICHTER KRANZBÜHLER: What was the meaning of the order?

GODT: The meaning of the order is plain. It prohibited attempts at rescue.

FLOTTENRICHTER KRANZBÜHLER: Why was that not forbidden by a reference to Standing War Order Number 154, which was issued in the winter of 1939-40?

THE PRESIDENT: Dr. Kranzbühler, surely a written order must speak for itself. Unless there is some colloquial meaning in a particular word used in the order, the order must be interpreted according to the ordinary meaning of the words.

FLOTTENRICHTER KRANZBÜHLER: I was not proposing to go into the question any further, Mr. President.

[Turning to the witness.] I should like to repeat my last question. Why, instead of issuing a new order, did they not simply refer commanders to Standing War Order Number 154, which was issued in the winter of 1939-40?

I refer, Mr. President, to Document GB-196, on Page 33 of the Prosecution's document book.

You remember that order, don't you. I have shown it to you.

GODT: Yes, I do. That order had already been canceled when the so-called *Laconia* order was issued. Apart from that, a mere reference to an order already issued would have lacked the character of actuality which orders should have.

FLOTTENRICHTER KRANZBÜHLER: Do you mean by that that your staff, as a matter of principle, did not issue orders by references to earlier orders?

GODT: That was avoided whenever possible; that is to say, almost always.

FLOTTENRICHTER KRANZBÜHLER: Will you explain to me why that order was issued as "top secret"?

GODT: The order appeared after an operation in which we nearly lost two boats, and contained a severe reprimand for the commanders concerned. It was not customary for us to put such a reprimand in a form accessible to any one except the commanders and all the officers.

THE PRESIDENT: Which is the severe reprimand?

FLOTTENRICHTER KRANZBÜHLER: Will you please explain of what this severe reprimand for the commander consisted?

GODT: It is understandable in the light of previous events—namely, those very things which it forbids. It is largely contained in the sentence beginning: "Rescue is against the most elementary demands" and it is also implied by the harshness, whereby the commander is reproached with being softhearted.

FLOTTENRICHTER KRANZBÜHLER: Does this mean that the commanders were accused of having endangered their boats too much in connection with the rescue action of the *Laconia* and of acting in a manner which was not in accordance with the dictates of war?

GODT: Yes, and that after having been repeatedly reminded during the action of the necessity for acting in a manner in accordance with the dictates of war.

FLOTTENRICHTER KRANZBÜHLER: You were interrogated on this order after the capitulation, as you told me; but you could not at the moment remember its exact wording. How was it possible for you not to remember this order?

GODT: There were certain orders which had to be kept in collective files and which one therefore saw very frequently. This order was not one of them, but was filed separately after being dealt with. After it had been issued I never saw it again until the end of the war.

FLOTTENRICHTER KRANZBÜHLER: What did an order intended for inclusion in such a collection look like on the outside?

GODT: It had to be a "Current Order" or an "Admonition Message."

FLOTTENRICHTER KRANZBÜHLER: Did that occur in the text of the order concerned?

GODT: It would be in the heading of the order concerned. That is not the case here.

FLOTTENRICHTER KRANZBÜHLER: So we may conclude from the fact that this wireless message is not headed either "Admonition Message" or "Current Order" that it did not belong to a collection of orders?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: But then how is it possible that Korvettenkapitän Möhle gave lectures on this order apparently until the end of the war?

GODT: Korvettenkapitän Möhle had access to all wireless messages issued by Commander, U-boats. He was entitled to select from these signals anything he thought necessary for the instruction of commanders about to go to sea. It made no difference whether the order was marked "Admonition" or "Current Order." He had obviously taken out this message and had had it among the material to be used for these instructions to the commanders.

FLOTTENRICHTER KRANZBÜHLER: Did Möhle ever ask you about the interpretation of that order?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: Did you ever hear of any other source interpreting this order to mean that survivors were to be shot?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: Can you judge from your own experience whether this order had, or could have had, any effect practically on Allied naval losses?

GODT: That is very difficult to judge. At that time something like 80 per cent of all U-boat attacks were probably carried out under conditions which made any attempt at rescue impossible. That is to say, these attacks were made on convoys or on vessels in close proximity to the coast.

The fact that some 12 captains and engineers were brought back as prisoners by U-boats is an indication of what happened in the other cases. It is difficult to say with any degree of certainty whether it was possible to take rescue measures in all cases. The situation was probably such that the Allied sailors felt safer in the lifeboats than they did, for instance, aboard the U-boat and probably were glad to see the U-boat vanish after the attack. The fact that the presence of the U-boat involved danger to itself is proved by this same case of the *Laconia,* where two U-boats were attacked from the air while engaged in rescuing the survivors.

I do not think it is at all certain that this order had any effect one way or the other.

FLOTTENRICHTER KRANZBÜHLER: What do you mean "one way or the other"?

GODT: I mean whether it meant an increase or a decrease in the number of losses among enemy seamen.

FLOTTENRICHTER KRANZBÜHLER: There is one argument I did not quite understand. You pointed to the fact that approximately 12 captains and chief engineers were made prisoner after this order was issued. Do you mean by that that only in these few cases was it possible, without endangering the submarine, to carry out the order to transfer such officers from the lifeboats?

GODT: It is too much to say that it was only possible in these few cases, but it does afford some indication of the number of cases in which it was possible.

FLOTTENRICHTER KRANZBÜHLER: I shall now show you the wireless message which went to Kapitänleutnant Schacht. It is on Page 36 of the Prosecution's document book. This message, too, was sent as "top secret." What was the reason for that?

GODT: It is a definite and severe reprimand for the commander.

FLOTTENRICHTER KRANZBÜHLER: How far was that reprimand justified? Schacht had not received previous instruction to rescue Italians only?

GODT: No, but it had been assumed that U-boats would realize that it was of primary importance that allies should be rescued, that is, that they should not become prisoners of war. Apart from that, several reminders had been issued in the course of operations warning commanders to be particularly careful. After that came Schacht's report, which appeared at the time to indicate that he had disobeyed orders. Viewed retrospectively, Schacht's action must have taken place before Commander, U-boats, issued the order in question, so that in part at least, the accusation was unjustified.

FLOTTENRICHTER KRANZBÜHLER: Were any further rescue measures carried out by U-boats after this order was issued in September 1942?

GODT: In isolated cases, yes.

FLOTTENRICHTER KRANZBÜHLER: Did Commander, U-boats, object to these rescues?

GODT: I have no recollection of that.

FLOTTENRICHTER KRANZBÜHLER: To your knowledge, did German U-boats deliberately kill survivors?

GODT: The only case I know of—and I heard of it after the capitulation—is that of Kapitänleutnant Eck. We heard an enemy broadcast which hinted at these happenings, but we were unable to draw any conclusions from that.

FLOTTENRICHTER KRANZBÜHLER: I now hand to you the Prosecution's Exhibit GB-203, which is regarded by the Prosecution as proof of the shooting of survivors. This is the war log of *U-247*

from which I mimeographed an extract on Page 74 of Volume II of my document book. This extract describes an attack made by the U-boat on a British trawler. You have already seen this war log. After his return, did the commander make a report on this action?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: Did he report anything about the shooting of survivors on that occasion?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: According to a statement made by a survivor named McAllister this trawler, the *Noreen Mary,* had a gun aboard. Do you know whether trawlers had guns mounted fore or aft?

GODT: They were almost always in the bows.

FLOTTENRICHTER KRANZBÜHLER: Can you remember, with the help of this extract from the war log and on the strength of your own recollection of the commander's report, the exact details of this incident?

GODT: Originally the U-boat when submerged encountered a number of vessels escorting trawlers close to Cape Wrath. It tried to torpedo one of the trawlers.

THE PRESIDENT: Is the witness trying to reconstruct this from the document, reconstruct the incident?

FLOTTENRICHTER KRANZBÜHLER: I am asking him to tell us what he remembers of the event, basing his account on his own recollection of the commander's report supplemented by the entry in the war log.

THE PRESIDENT: Well, he hasn't said whether he ever saw the commander.

FLOTTENRICHTER KRANZBÜHLER: Oh yes, Mr. President.

THE PRESIDENT: Well then, all he can tell us is what the commander told him.

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: Well, have him do that then.

FLOTTENRICHTER KRANZBÜHLER: Will you please tell us what you remember after reading the log.

THE PRESIDENT: Wait a minute. If he remembers anything about what the commander told him he can tell us that, but the log speaks for itself and he can't reconstruct it out of that. He must tell us what he remembers of what the officer said.

FLOTTENRICHTER KRANZBÜHLER: Very well, Sir.

[Turning to the witness.] Will you please speak from memory.

GODT: The commander reported that he had encountered a number of trawlers extraordinarily close to the coast, considering conditions at the time. Failing in his attempt to torpedo one of them, he sank it with gunfire. That was all the more remarkable because, in the first place, the incident occurred quite unusually near the coast and, in the second place, the commander risked this artillery fight regardless of the presence of other vessels nearby.

FLOTTENRICHTER KRANZBÜHLER: Were these other ships also armed trawlers?

GODT: It was to be assumed at the time that every trawler was armed.

FLOTTENRICHTER KRANZBÜHLER: The witness McAllister thought that the submarine surfaced 50 yards away from the trawler. In the light of your own recollections and experiences, do you think this is possible?

GODT: I do not remember the details; but it would be an unusual thing for a U-boat commander to do.

FLOTTENRICHTER KRANZBÜHLER: McAllister also stated the U-boat used shells filled with wire.

THE PRESIDENT: Wait a minute. Wait a minute. Dr. Kranzbühler, the Tribunal thinks that the witness oughtn't to express opinions of this sort. He ought to give us the evidence of any facts which he has. He is telling us in his opinion it is impossible that a naval commander would ever bring his submarine up within 50 yards of another vessel.

FLOTTENRICHTER KRANZBÜHLER: Yes.

THE PRESIDENT: That is not a matter for him to say.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I was going to ask the witness next whether German U-boats used shells filled with wire as stated by the witness McAllister. Is that question admissible?

THE PRESIDENT: Shells filled with wire?

FLOTTENRICHTER KRANZBÜHLER: Yes, that is the question I want to put.

Will you answer that question, Witness.

GODT: There were no such shells.

FLOTTENRICHTER KRANZBÜHLER: Was this attack by the submarine on the *Noreen Mary* reported by wireless immediately? Do you know anything about it?

GODT: Do you mean the U-boat commander's report?

FLOTTENRICHTER KRANZBÜHLER: No, by the British.

GODT: As far as I remember, a wireless message sent by a British vessel was intercepted, reporting a U-boat attack in the area.

FLOTTENRICHTER KRANZBÜHLER: A signal is entered in the war log under 0127 hours. It is intended for Matschulat, which means that it was sent by you to the commander, and it reads, "English steamer reports attack by German U-boat west of Cape Wrath."

GODT: That is the message intended to inform the U-boat that a wireless signal sent by a British steamer concerning a submarine attack in that area had been intercepted.

FLOTTENRICHTER KRANZBÜHLER: I should now like to ask you something about Standing War Order Number 511. This is in Volume I of my document book, Page 46. When I presented this order, the Tribunal was not sure of the significance of Paragraph 2, which I am going to read:

> "Captains and officers of neutral ships which may be sunk according to Standing Order Number 101, (such as Swedish except Göteborg traffic), must not be taken on board, since internment of these officers is not permitted by international law."

Can you tell me first the experiences or calculations which led to the inclusion of Paragraph 2 in the order?

GODT: On one occasion a U-boat brought a Uruguayan officer —a captain whose ship had been sunk—to Germany. We were afraid that if we released this captain he might report some of the things he had seen while he was interned aboard the U-boat. The reason for this order was to avoid difficulties of that kind in the future; for the Uruguayan captain had to be released and was, in fact, released.

FLOTTENRICHTER KRANZBÜHLER: What is the meaning of the reference to neutral ships which might be sunk according to Standing War Order Number 101?

GODT: May I please see the order for a minute?

[The document was submitted to the witness.]

The Standing War Order Number 101 contains the following directives in connection with the sinking of neutral ships: Once inside the blockade zone, all neutral ships can be sunk as a matter of principle, with two main exceptions, or shall we say, two general exceptions.

To begin with, ships belonging to certain neutral countries, with whom agreements had been made regarding definite shipping channels, must not be sunk; further, ships belonging to certain

affidavit by a man who was in charge of the SD at Bergen and later at Trondheim, and it is the second paragraph:

"I received the order by teletype letter or radiogram from the Commander of the Security Police and the SD, Oslo, to transfer Evans from Trondheim Missions Hotel to the BdS, Oslo.

"I cannot say who signed the radiogram or the teletype letter from Oslo. I am not sure to whom I transmitted the order, but I think it was to Hauptsturmführer Hollack. I know that the Commanding Admiral of the Norwegian Northern Coast had interrogated Evans himself."

And then he goes on to deal with Evans' clothing.

I put it to you once again: Do you say that you did not know from the Admiral, Northern Coast himself that he had interrogated this man?

WAGNER: Yes, I am asserting that.

COL. PHILLIMORE: Well, I will take you to one more incident which you knew about, as is shown by your own war diary. Would you look at the Document D-658.

My Lord, this document was put in as GB-229.

[Turning to the witness.] Now, that is an extract from the SKL War Diary, is it not?

WAGNER: Let me examine it first. I do not have the impression that...

COL. PHILLIMORE: You said yesterday that it was from the war diary of the Naval Commander, West France, but I think that was a mistake, was it not?

WAGNER: I did not make any statement yesterday on the origin of the war diary.

COL. PHILLIMORE: Just read the first sentence. I think it shows clearly it was the SKL War Diary.

"9 December 1942. The Naval Commander, West France, reports"—and then it sets out the incident. And then, the third sentence:

"The Naval Commander, West France, has ordered that both soldiers be shot immediately for attempted sabotage if their interrogation, which has been begun, confirms what has so far been discovered; their execution has, however, been postponed in order to obtain more information.

"According to a Wehrmacht report"—I think that is a mistranslation; it should be "According to the Wehrmacht communiqué"—"both soldiers had meanwhile been shot. The

measure would be in accordance with the Führer's special order, but is nevertheless something new in international law, since the soldiers were in uniform."

That is from the SKL War Diary, is it not?

WAGNER: I do not think that this is the War Diary of the SKL; but rather it would seem to be the war diary of the Naval Group Command, West, or the Commanding Admiral in France.

COL. PHILLIMORE: Well, I will get the original here and clear the matter up later, but I suggest to you that this is the SKL War Diary, which at the time . . .

WAGNER: I cannot recognize that assertion until it is proved by the original.

COL. PHILLIMORE: And I suggest to you that you, who were Chief of Staff Operations at the time, must have been fully aware of that incident. Do you deny that?

WAGNER: I deny—I maintain that I do not remember that affair.

COL. PHILLIMORE: Do you say that a matter of that sort would not be reported to you?

WAGNER: I have been told here that the order to shoot these people was obtained from headquarters directly by the SD.

COL. PHILLIMORE: Now, finally, I put to you the incident of the capture of the seven seamen, six of the Norwegian Navy and one of the Royal Navy, at Ulven near Bergen in July 1943. That is the document D-649 in the Prosecution document book, GB-208.

Do you remember this incident? Do you remember the capture of these seven men by Admiral Von Schrader with his two task forces?

WAGNER: I saw this paper while I was being interrogated, and that is why I remember it.

COL. PHILLIMORE: But do you remember the incident?

WAGNER: No, not from my personal recollection.

COL. PHILLIMORE: You were still Chief of Staff Operations.

THE PRESIDENT: Which page?

COL. PHILLIMORE: My Lord, it is Page 67 of the English document book, Page 100 in the German.

[Turning to the witness.] Do you say that as Chief of Staff Operations you do not remember any of these incidents?

WAGNER: Yes, I assert and maintain what I have already said about this.

COL. PHILLIMORE: Did not your operational—did your commanders not report when they captured an enemy Commando?

WAGNER: I must assume that those things were also reported in the situation reports.

COL. PHILLIMORE: Now, you are really suggesting that you have forgotten all about these incidents now?

WAGNER: In all my testimony I have strictly adhered to what I personally remember.

COL. PHILLIMORE: Do you know what happened to these men? You know they were captured in uniform, do you not? There was a naval officer with gold braid around his arm. That is a badge you use in the German Navy, is it not?

WAGNER: I have already said that I do not recall this affair.

COL. PHILLIMORE: Well, let me just tell you and remind you. After interrogation by naval officers and officers of the SD, both of whom recommended prisoner-of-war treatment, these men were handed over by the Navy to the SD for shooting. They were taken to a concentration camp, and at 4 o'clock in the morning they were led out one by one, blindfolded, fettered, not told they were going to be shot, and shot one by one on the rifle range. Do you know that?

WAGNER: No.

COL. PHILLIMORE: Did you know that is what handing over to the SD meant?

WAGNER: I have already said that handing over to the SD implied several possibilities.

COL. PHILLIMORE: Do you know that then their bodies were sunk in the fjord with charges attached, and destroyed, as it says in the document, "in the usual way"—Paragraph 10 of the affidavit—and their belongings in the concentration camp were burned?

WAGNER: No, I do not know that.

COL. PHILLIMORE: Very well. A further point: Do you remember that in March or April 1945, at the very end of the war, do you remember that this order, the Führer Order, was cancelled by Keitel?

That is Paragraph 11 of the affidavit, My Lord.

Do you remember that? Just read it.

WAGNER: Yes, I have heard of that.

COL. PHILLIMORE: Yes. You thought you were losing the war by then, and you had better cancel the Commando Order, is that not the fact?

WAGNER: I do not know for what reasons the OKW rescinded orders.

COL. PHILLIMORE: Is not this right: You did not worry about this order in 1942 when you thought you were winning the war, but when you found you were losing it, you began to worry about international law. Is not that what happened?

WAGNER: It is absolutely impossible for me to investigate order. This paragraph of the Commando Order states clearly and distinctly that these Commandos had orders—that these Commandos were composed partly of criminal elements of the occupied territories—that they had orders to kill prisoners whom they found a burden, that other Commandos had orders to kill all captives; and that orders to this effect had fallen into our hands.

COL. PHILLIMORE: Did you ever make any inquiries to see whether that was true?

WAGNER: It is absolutely impossible for me to investigate official information which I receive from my superiors.

COL. PHILLIMORE: You were Chief of Staff Operations; you received every report on the Commando raids, did you not?

WAGNER: I gave detailed evidence in each individual case, but I cannot make a general statement.

COL. PHILLIMORE: When you were Chief of Staff Operations, did you not receive a full report every time there was a British Commando raid?

WAGNER: I have already said that I believe such incidents formed part of the situation reports to the SKL.

COL. PHILLIMORE: I suggest you can answer that question perfectly straight if you wanted to. Here you were, a Senior Staff Officer, Commando Raids. Are you saying you did not personally see and read a full report on every one?

WAGNER: I am not asserting that. I have answered each individual question by stating exactly what I remember.

COL. PHILLIMORE: Do you say that taking these men out and shooting them without a trial, without telling them they were going to be shot, without seeing a priest, do you say that...

WAGNER: With regard to the Navy...

COL. PHILLIMORE: Do you say that was not murder?

WAGNER: I do not wish to maintain that at all. I do maintain that I was presumably told about the cases in which men were shot by the Navy, and I am of the opinion that these people who were captured as saboteurs were not soldiers, but were criminals who, in accordance with their criminal...

COL. PHILLIMORE: Let us get it perfectly clear. Are you saying that the action taken in shooting these Commandos on all

these occasions—are you saying that was perfectly proper and justified? I thought you agreed with me it was murder, just now. Which is it?

WAGNER: I would like to answer that in each individual case.

COL. PHILLIMORE: It is a very simple question to answer generally and it takes less time. Do you say that men captured in uniform should be taken out and shot without trial?

WAGNER: I cannot consider men of whom I know that they have orders to commit crimes, as soldiers, within international law.

COL. PHILLIMORE: Are you saying that this action was perfectly proper—are you?

WAGNER: Yes, entirely and perfectly.

COL. PHILLIMORE: Shoot helpless prisoners without trial, bully little neutrals who cannot complain? That is your policy, is it?

WAGNER: Not at all.

COL. PHILLIMORE: What crime did Robert Paul Evans commit, who attacked the *Tirpitz* in a two-man torpedo?

WAGNER: I am convinced it was proved that he belonged to a sabotage unit, and that besides the purely naval character of the attack on the ship, there were other aspects which marked him as a saboteur.

COL. PHILLIMORE: And you said just now that you did not remember the incident?

WAGNER: Yes.

COL. PHILLIMORE: Will you agree on this, will you agree with me, that if this shooting by the SD was murder, you and Admiral Dönitz and Admiral Raeder, who signed the orders under which this was done, are just as guilty as the men who shot them?

WAGNER: The person who issued the order is responsible for it.

COL. PHILLIMORE: And that person who passed it and approved it; is not that right?

WAGNER: I assume full responsibility for the transmission of this order.

COL. PHILLIMORE: Your Lordship, I have no further question.

THE PRESIDENT: Colonel Phillimore, D-658 was an old exhibit, was it not?

COL. PHILLIMORE: Yes, My Lord.

THE PRESIDENT: Have you given new exhibit numbers to all the new documents?

COL. PHILLIMORE: I am very much obliged, Your Lordship. I did omit to give a new exhibit number to the affidavit by Flesch.

THE PRESIDENT: D-864.

COL. PHILLIMORE: D-864. My Lord, it should be GB-457. My Lord, I am very sorry. I was not advised, but I got it.

THE PRESIDENT: And all the others you have given numbers to?

COL. PHILLIMORE: Yes, My Lord.

THE PRESIDENT: Very well. Is there any other cross-examination? Then, does Dr. Kranzbühler wish to re-examine? Dr. Kranzbühler, I see it is nearly half-past eleven, so perhaps we had better adjourn for ten minutes.

[A recess was taken.]

THE PRESIDENT: Before Dr. Kranzbühler goes on with his re-examination, I shall announce the Tribunal's decisions with reference to the applications which were made recently in court.

The first application on behalf of the Defendant Von Schirach was for a witness Hans Marsalek to be produced for cross-examination, and that application is granted.

The second application was for interrogatories to a witness Kaufmann, and that is granted.

The next matter was an application on behalf of the Defendant Hess for five documents; and as to that, the Tribunal orders that two of the documents applied for under Heads B and D in Dr. Seidl's application have already been published in the *Reichsgesetzblatt,* and one of them is already in evidence, and they will, therefore, be admitted.

The Tribunal considers that the documents applied for under Heads C and E of Dr. Seidl's application are unsatisfactory and have no evidential value; and since it does not appear from Dr. Seidl's application and the matters referred to therein that the alleged copies are copies of any original documents, the application is denied in respect thereof. But leave is granted to Dr. Seidl to file a further affidavit by Gaus covering his recollection of what was in the alleged agreements.

The application on behalf of the Defendant Funk for an affidavit by a witness called Kallus is granted.

The application on behalf of the Defendant Streicher is denied. The application on behalf of the Defendant Sauckel firstly for a witness named Biedermann is granted, and secondly for four documents; that application is also granted.

The application on behalf of the Defendant Seyss-Inquart for an interrogatory to Dr. Stuckart is granted.

The application on behalf of the Defendant Frick is granted for an interrogatory to a witness, Dr. Konrad.

The application on behalf of the Defendant Göring with reference to two witnesses is granted in the sense that the witnesses are to be alerted.

The application on behalf of the Defendants Hess and Frank for official information from the ministry of war of the United States of America is denied.

That is all.

FLOTTENRICHTER KRANZBÜHLER: I would like to put another question to you on the subject of the Commando Order.

Did the Naval Operations Staff have any part in introducing this order?

WAGNER: No, no part at all.

FLOTTENRICHTER KRANZBÜHLER: Did you, did the Naval Operations Staff have the possibility, either before or during the drafting of the order, of investigating the correctness of the particulars mentioned in Paragraph 1 of the order?

WAGNER: No, such a possibility did not exist.

FLOTTENRICHTER KRANZBÜHLER: The treatment of a man who had attacked the *Tirpitz* with a two-man torpedo in October 1942 has just been discussed here. Did you know that a year later, in the autumn of 1943, there was a renewed attack on the *Tirpitz* with two-man torpedoes, and that the British sailors who were captured at that time were treated in accordance with the Geneva Convention by the Navy, who had captured them?

WAGNER: The second attack on the *Tirpitz* is known to me. I do not remember the treatment of the prisoners.

FLOTTENRICHTER KRANZBÜHLER: You mentioned that the Naval Operations Staff possibly received reports on the statements made by men of Commando units. From what aspect did those reports interest the Naval Operations Staff? Did operational questions interest you, or the personal fate of these people?

WAGNER: Naturally we were interested in the tactical and operational problems so that we could gather experiences and draw our conclusions from them.

FLOTTENRICHTER KRANZBÜHLER: Can you actually remember seeing such a report?

WAGNER: No.

FLOTTENRICHTER KRANZBÜHLER: Just now a document was shown to you dealing with the treatment of a Commando unit captured in a Norwegian fjord. It is Number 526-PS. Do you still have that document?

WAGNER: Possibly, some documents are still lying here.

FLOTTENRICHTER KRANZBÜHLER: Will you have a look at that document.* I am having the document handed to you. In the third paragraph you will find a reference to the fact that this Commando unit was carrying 1,000 kilograms of explosives. Is that correct?

WAGNER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Did you understand my question?

WAGNER: I answered "yes."

FLOTTENRICHTER KRANZBÜHLER: I am sorry, I did not hear you.

In the fifth paragraph you will find that the Commando unit had orders to carry out sabotage against strong points, battery positions, troop barracks, and bridges, and to organize a system for the purpose of further sabotage. Is that correct?

WAGNER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Did these assignments have anything to do with the Navy?

WAGNER: No.

FLOTTENRICHTER KRANZBÜHLER: Can you see any indication in the whole document which would suggest that the Navy had anything at all to do with the capture or the treatment of this Commando unit?

WAGNER: No, the document does not contain an indication of that sort.

FLOTTENRICHTER KRANZBÜHLER: You were asked this morning about the case of the *Monte Corbea.* In connection with a court-martial ruling against the commander, the Commander-in-Chief of the Navy, Admiral Raeder, sent a wireless message at that time to all commanders. This radiogram is recorded in Document Dönitz-78 in the document book, Volume 4, Page 230. I shall read that wireless message to you:

> "The Commander-in-Chief of the Navy has personally and expressly renewed his instructions that all U-boat commanders must adhere strictly to the orders regarding the treatment of neutral ships. Any infringement of these orders has

incalculable political consequences. This order is to be communicated to all commanders immediately."

Do you see any suggestion here that the order is restricted to Spanish ships?

WAGNER: No, there is no such suggestion in this order.

FLOTTENRICHTER KRANZBÜHLER: I submit to you a document which was used yesterday, D-807. It deals with notes to the Norwegian Government on the sinking of several steamers and contains the drafts of these notes of the High Command of the Navy. Does this document yield any indication at all that the notes were actually sent, or is it impossible to tell from the drafts that the notes themselves were ever dispatched?

WAGNER: Since there are no initials or signatures on either of these letters, they may be drafts. At any rate, proof that they were actually sent is not apparent from this document.

THE PRESIDENT: Did you give us the page number of it?

FLOTTENRICHTER KRANZBÜHLER: It was submitted yesterday, Mr. President. It is not in any document book.

THE PRESIDENT: Yes, I see.

FLOTTENRICHTER KRANZBÜHLER: I now read to you the first sentence from another document which was put to you yesterday. Its number is D-846 and it concerns a discussion with the German Minister to Denmark, Renthe-Fink, on 26 September 1939. I shall read the first sentence to you:

"Sinking of Swedish and Finnish ships by our submarines have caused considerable concern here on account of the Danish food transports to Great Britain."

Does this report give any indication that these sinkings took place without warning, or were these ships sunk because contraband was captured on them in the course of a legitimate search?

WAGNER: The sentence which you have just read does not show how these ships were sunk. As far as I remember the document from yesterday, it does not contain any reference to the way in which these ships were sunk, so that it must be assumed as a matter of course that they were sunk in accordance with the Prize Ordinance.

FLOTTENRICHTER KRANZBÜHLER: You were asked yesterday whether you considered the German note to the neutral countries of 24 November 1939 a fair warning against entering certain waters and you answered the question in the affirmative. Is that right?

WAGNER: Yes.

FLOTTENRICHTER KRANZBÜHLER: And then you were asked whether we had deceived the neutrals, and you answered that question with "no." Did this negative answer apply to the previous question on the warning against sailing in certain waters, or did it refer to all the political measures with regard to neutral states which the German Government took in order to conceal their own political intentions?

WAGNER: The answer in that context referred to the previous questions which had been asked about warning the neutrals promptly of the measures which we adopted for the war at sea.

FLOTTENRICHTER KRANZBÜHLER: I want to make this point quite clear. Do you have any doubt whatever that the pretense of minefields in the operational zones around the British Coast served not only the purpose of deceiving the enemy defense, but also the political purpose of concealing from the neutrals the weapons which we employed in the war at sea?

WAGNER: Yes, I expressly confirm this two-fold purpose.

FLOTTENRICHTER KRANZBÜHLER: The two-fold purpose of secrecy?

WAGNER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Do you have any doubt whatever that the German Government denied to neutral governments that certain ships were sunk by U-boats, although they had in fact been sunk by U-boats?

WAGNER: Yes. Or rather, no. I have no doubt that the denials were formulated in that way, as a generally accepted political measure adopted wherever indicated.

FLOTTENRICHTER KRANZBÜHLER: Yesterday you admitted the possibility that Admiral Dönitz, as Commander-in-Chief of U-boats, may have received knowledge from the Naval Operations Staff of the handling of political incidents caused by U-boats. Can you, after careful recollection, name a single instance when he did in fact receive from the SKL information on the political measures adopted?

WAGNER: No, I do not remember such an instance.

FLOTTENRICHTER KRANZBÜHLER: I have no further questions.

DR. SIEMERS: Admiral, you have explained the basis of the Commando Order, as far as the Naval Operations Staff is concerned, by referring to Hitler's definite assertions that he had in his possession enemy orders saying that prisoners were to be killed. In connection with this Commando Order Colonel Phillimore dealt

with the case of the British sailor Evans in great detail. In my opinion that case has not so far been clarified. Colonel Phillimore spoke of the murder of a soldier. I think that in spite of the soundness of the documents the Prosecution is mistaken about the facts, also in a legal respect. Will you once more look at both documents, Document D-864 . . .

Mr. President, that is Exhibit GB-457, discussed by Colonel Phillimore this morning.

This is an affidavit by Gerhard Flesch. The Prosecution quoted the sentence which states that the Commanding Admiral of the Northern Coast of Norway had interrogated Evans personally. Admiral Wagner, does that sentence show that Evans was a prisoner of the Navy?

WAGNER: No.

DR. SIEMERS: What was the situation according to the Flesch affidavit? Will you please clarify it?

WAGNER: According to the second paragraph of that affidavit, Evans must have been in the hands of the SD.

DR. SIEMERS: That is right.

And, Mr. President, may I add that at the beginning of the affidavit Flesch states that he was the commander of the Security Police. The Security Police had captured Evans; he was therefore a prisoner of the SD.

[Turning to the witness.] Is it correct, therefore, that the British sailor Evans was available to the German admiral in Norway for the sole purpose of being interrogated?

WAGNER: Undoubtedly.

DR. SIEMERS: And the admiral was interested in interrogating him merely to obtain purely factual information on the attack on the *Tirpitz*. Is that correct?

WAGNER: Quite correct.

DR. SIEMERS: May I ask you to look at the next paragraph of the Affidavit D-864? There it mentions Evans' clothes, and says:

"It is not known to me that Evans wore a uniform. As far as I can remember, he was wearing blue overalls."

Does this mean that Evans was not recognizable as a soldier?

WAGNER: No, probably not.

DR. SIEMERS: Will you now pass on to the Document UK-57 submitted by Colonel Phillimore?

Mr. President, this is Exhibit GB-164 and should be in the original Document Book Keitel, but I think it was newly submitted today.

[Turning to the witness.] You have a photostat copy, have you not?

WAGNER: Yes.

DR. SIEMERS: Will you, please, turn to the fourth page. First, a question: Is it possible that this document was known to the Naval Operations Staff? Does the document indicate that it was sent to the Naval Operations Staff?

WAGNER: These are informal conference notes of the OKW which were apparently not sent to the Naval Operations Staff.

DR. SIEMERS: If I understand it correctly then, this is a document of the Intelligence Service of the OKW, is it not?

WAGNER: Yes. That is correct.

DR. SIEMERS: Under Figure 2 it says "attempted attack on the battleship *Tirpitz*." The first part was read by Colonel Phillimore:

"Three Englishmen and two Norwegians were held up at the Swedish frontier."

Can one, on the strength of this, say that they were presumably apprehended by the Police and not by the Wehrmacht?

WAGNER: Presumably, yes. Certainly not by the Navy; but probably by the Police, who controlled the frontiers, so far as I know.

DR. SIEMERS: Do you not think, Admiral, that this is not only probable but certain if you think back to the affidavit of 14 November 1945 by Flesch, the commander of the Security Police, who brought Evans from the frontier to Oslo?

WAGNER: If you take the two together, then in my opinion it is certain; I do not think there is any doubt about it.

DR. SIEMERS: Will you then look at the following sentence?

Mr. President, that is under Figure 2, the last sentence of the first paragraph. I quote:

"It was possible to take only the civilian-clothed British sailor Robert Paul Evans"—born on such and such a date—"into arrest. The others escaped into Sweden."

Therefore, I think we may assume with certainty that Evans was not recognizable as a soldier.

WAGNER: Yes, no doubt.

DR. SIEMERS: Then, will you look at the following sentence. There it says—I quote:

"Evans had a pistol holster used for carrying weapons under the arm-pit, and he had a knuckle duster."

SIR DAVID MAXWELL-FYFE: My Lord, it says nothing about civilian clothes in the English copy. I do not want to make a bad point, but it is not in my copy.

THE PRESIDENT: I am afraid I do not have the document before me.

SIR DAVID MAXWELL-FYFE: My Lord, the English copy that I have simply has, "However, only the British seaman, Robert Paul Evans, born 14 January 1922, at London, could be arrested. The others escaped into Sweden."

My Lord, I think it can be checked afterwards.

THE PRESIDENT: Exact reference to the document?

SIR DAVID MAXWELL-FYFE: My Lord, that was Document UK-57, and it is a report of the OKW, Office for Ausland Abwehr, of 4 January 1944.

THE PRESIDENT: Did Colonel Phillimore put it in this morning?

SIR DAVID MAXWELL-FYFE: I put it in, My Lord, I think it was—certainly in cross-examining the Defendant Keitel. It has been in before, My Lord.

THE PRESIDENT: I see, it has already been put in with this lot.

DR. SIEMERS: I should be grateful to the Tribunal if the mistake were rectified in the English translation. In the German original text the photostat copy is included, therefore the wording "civilian-clothed" must be correct.

Witness, we were discussing the sentence—I quote:

"Evans had a pistol holster used for carrying weapons under the arm-pit, and he had a knuckle duster."

How does this bear on the fact that he was wearing civilian clothes?

WAGNER: It shows that he . . .

DR. SIEMERS: Sir David would like me to read the next sentence too:

"Acts of force contrary to international law could not be proved against him. Evans made detailed statements regarding the action and, on 19 January 1943, in accordance with the Führer Order, he was shot."

How does this bear on the fact that he was wearing civilian clothes? Does this show that he did not act as a soldier in enemy territory should act?

THE PRESIDENT: Just a moment. The Tribunal considers that that is a question of law which the Tribunal has got to decide, and not a question for the witness.

DR. SIEMERS: Then I shall forego the answer.

May I ask you to turn to the next page of the document and to come back to the Bordeaux case, a similar case which has already been discussed. You have already explained the Bordeaux case insofar as you said that the Naval Operations Staff was not informed about it. I now draw your attention to the sentence at the bottom of Page 3:

"After carrying out the explosions, they sank the boats and tried, with the help of the French civilian population, to escape into Spain."

Thus did the men concerned in this operation also not act like soldiers?

WAGNER: That, according to this document, is perfectly clear.

DR. SIEMERS: Thank you. And now one last question. At the end of his examination Colonel Phillimore asked you whether you considered Grossadmiral Raeder and Grossadmiral Dönitz guilty in the cases which have just been discussed, guilty of these murders as he termed them? Now that I have further clarified these cases I should like you to answer the question again.

WAGNER: I consider that both admirals are not guilty in these two cases.

DR. SIEMERS: I have no further questions.

DR. LATERNSER: Admiral, during cross-examination you explained your views on the Commando Order. I wanted to ask you: Were your views possibly based on the assumption that the order was examined by a superior authority as to its justification before international law?

WAGNER: Yes. I assumed that the justification for the order was examined by my superiors.

DR. LATERNSER: Furthermore, during cross-examination you stated your conception of what happened when a man was handed over to the SD. I wanted to ask you: Did you have this conception already at that time, or has it taken form now that a great deal of material has become known to you?

WAGNER: There is no question that this conception was considerably influenced by knowledge of a great deal of material.

DR. LATERNSER: You did not, therefore, at that time have the definite conception that the handing over of a man to the SD meant certain death?

WAGNER: No, I did not have that conception.

DR. LATERNSER: Now, a few questions regarding the equipment of the Commando units. Do you not know that automatic arms were

found on some members of these units and that, in particular, pistols were carried in such a manner that if, in the event of capture, the man raised his arms, that movement would automatically cause a shot to be fired which would hit the person standing opposite the man with raised arms? Do you know anything about that?

WAGNER: I have heard of it.

DR. LATERNSER: Did you not see pictures of it?

WAGNER: At the moment I cannot remember seeing such pictures.

DR. LATERNSER: Did the Germans also undertake sabotage operations in enemy countries?

THE PRESIDENT: What has it got to do with that, Dr. Laternser?

DR. LATERNSER: I wanted to ascertain by means of this question whether the witness had knowledge of German sabotage operations, and furthermore, whether he had received reports about the treatment of such sabotage units.

THE PRESIDENT: That is the very thing which we have already ruled cannot be put.

You are not suggesting that these actions were taken by way of reprisal for the way in which German sabotage units were treated? We are not trying whether any other powers have committed breaches of international law, or crimes against humanity, or war crimes; we are trying whether these defendants have.

The Tribunal has ruled that such questions cannot be put.

DR. LATERNSER: Mr. President, I do not know what answer the witness is going to give. I merely wanted, in case, which I do not know...

THE PRESIDENT: We wanted to know why you were putting the question. You said you were putting the question in order to ascertain whether German sabotage units had been treated in a way which was contrary to international law, or words to that effect, and that is a matter which is irrelevant.

DR. LATERNSER: But, Mr. President, it would show at least that doubt existed about the interpretation of international law with regard to such operations and that would be of importance for the application of the law.

THE PRESIDENT: The Tribunal rules that the question is inadmissible.

DR. LATERNSER: Witness, you also stated during your cross-examination that until 1944 you were chief of the Operational

Department of the Naval Operations Staff. Can you give information on whether there were strong German naval forces or naval transport ships in the Black Sea?

WAGNER: The strength of naval forces and transport ships in the Black Sea was very slight.

DR. LATERNSER: For what were they mostly needed?

WAGNER: For our own replacements and their protection.

THE PRESIDENT: Dr. Laternser, how does this arise out of the cross-examination? You are re-examining now, and you are only entitled to ask questions which arise out of the cross-examination. There have been no questions put with reference to the Black Sea.

DR. LATERNSER: Mr. President, I learned during the examination that for a long time the witness was chief of the Operational Department; and I concluded that he was one of the few witnesses who could give me information regarding the facts of a very serious accusation raised by the Russian Prosecution, namely, the accusation that 144,000 people had been loaded on to German ships, that at Sebastopol those ships had gone to sea and had then been blown up, and that the prisoners of war on the ships were drowned. The witness could clarify this matter to some extent.

THE PRESIDENT: Dr. Laternser, you knew, directly this witness began his evidence, what his position was; and you, therefore, could have cross-examined him yourself at the proper time. You are now re-examining; you are only entitled—because we cannot have the time of the Court wasted—you are only entitled to ask him questions which arise out of the cross-examination. In the opinion of the Tribunal this question does not arise out of the cross-examination.

DR. LATERNSER: Mr. President, please, would you, as an exception, admit this question?

THE PRESIDENT: No, Dr. Laternser, the Tribunal has given you a great latitude and we cannot continue to do so.

The Tribunal will now adjourn.

[The Tribunal recessed until 1400 hours.]

neutral states which might be assumed not to be working exclusively in the enemy's service. Outside the blockade zone neutral ships might be sunk; first, if they were not recognizable as neutrals and therefore must be regarded as enemy vessels by the submarine in question and, second, if they were not acting as neutrals.

FLOTTENRICHTER KRANZBÜHLER: As, for instance, those traveling in enemy convoy?

GODT: Yes, those traveling in convoys, or if they reported the presence of U-boats, *et cetera,* by wireless.

FLOTTENRICHTER KRANZBÜHLER: Did Paragraph 2 mean that the captains of neutral ships would in the future be in a worse position than captains of enemy ships, or would they be in a better position?

GODT: This is not a question of better or worse, it is a question of taking prisoners. They were not to be taken prisoners because they could not be detained as such. Whether this meant that their positions would be better or worse is at least open to doubt. Captains of enemy ships usually tried to avoid being taken aboard the U-boat probably because they felt safer in their lifeboats.

FLOTTENRICHTER KRANZBÜHLER: What do you know about orders to respect hospital ships at the beginning of the invasion?

GODT: At the beginning of the invasion the rule in this area, as in any other area, was that hospital ships were not to be attacked. Commanders operating in the invasion zone then reported that there was a very large number of hospital ships sailing.

FLOTTENRICHTER KRANZBÜHLER: From where to where?

GODT: Between the Normandy invasion area and the British Isles. Commander, U-boats, then had investigations made by the competent department as to whether hospital traffic was really as heavy as alleged in these reports. That was found to be the case.

FLOTTENRICHTER KRANZBÜHLER: What do you mean by that?

GODT: It means that the number of hospital ships reported corresponded to the estimated number of wounded. After that it was expressly announced that hospital ships were not to be attacked in the future.

FLOTTENRICHTER KRANZBÜHLER: Was the strict respect paid to hospital ships at that stage of the war in our own interests?

GODT: At that time we only had hospital ships in the Baltic where the Geneva Convention was not recognized by the other side; so we had no particular interest in respecting hospital ships.

FLOTTENRICHTER KRANZBÜHLER: Do you know of any case of an enemy hospital ship being sunk by a German U-boat during this war?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: Did it happen the other way round?

GODT: The German hospital ship *Tübingen* was, I think, sunk by British aircraft in the Mediterranean.

FLOTTENRICHTER KRANZBÜHLER: Presumably because of mistaken identity?

THE PRESIDENT: Dr. Kranzbühler, the question on German hospital ships which were sunk isn't relevant, is it?

FLOTTENRICHTER KRANZBÜHLER: I was going to show by it, Mr. President, that the possibility of mistaken identity does exist and that a hospital ship was in fact sunk in consequence of such a mistake. My evidence therefore goes to show that from the sinking of a ship it must not be concluded that the sinking was ordered.

THE PRESIDENT: The Tribunal quite realize that mistakes may be made in sea warfare. It is a matter of common knowledge. Should we adjourn now?

FLOTTENRICHTER KRANZBÜHLER: Yes, Mr. President.

[A recess was taken.]

FLOTTENRICHTER KRANZBÜHLER: Admiral Godt, you have known Admiral Dönitz very well since 1934; and you have had a good deal to do with him during that time. Did he have anything to do with politics during that time?

GODT: Nothing at all, to my knowledge, before he was appointed Commander-in-Chief of the Navy. As Commander-in-Chief of the Navy he made occasional speeches outside the Navy; for instance, he addressed dock workers, made a speech to the Hitler Youth at Stettin, and gave a talk over the air on "Heroes' Day" and on 20 July; I remember no other occasions.

FLOTTENRICHTER KRANZBÜHLER: Were these speeches not always directly connected with the tasks of the Navy—for instance, the address to the dock laborers—ship-building?

GODT: Yes, when he spoke to the dock laborers.

FLOTTENRICHTER KRANZBÜHLER: And to the Hitler Youth?

GODT: The Hitler Youth, too.

FLOTTENRICHTER KRANZBÜHLER: And what was the connection there?

GODT: As far as I remember, the speech was concerned with recruiting for the Navy.

FLOTTENRICHTER KRANZBÜHLER: Did he select his staff officers for their ideological or military qualifications?

GODT: Their military and personal qualities were all that mattered. Their political views had nothing to do with it.

FLOTTENRICHTER KRANZBÜHLER: The question of whether Admiral Dönitz knew, or must have known, of certain happenings outside the Navy is a very important one from the Tribunal's point of view. Can you tell me who his associates were?

GODT: His own officers and officers of his own age, almost exclusively. As far as I know, he had very few contacts beyond those.

FLOTTENRICHTER KRANZBÜHLER: Did matters change much in this respect after he was appointed Commander-in-Chief of the Navy?

GODT: No. He probably had a few more contacts with people from other branches, but on the whole his circle remained the same.

FLOTTENRICHTER KRANZBÜHLER: Where did he actually live at that time, that is, after his appointment as Commander-in-Chief of the Navy?

GODT: After his appointment as Commander-in-Chief, he was mainly at the headquarters of the Naval Operations Staff near Berlin.

FLOTTENRICHTER KRANZBÜHLER: Did he live with his family or with his staff?

GODT: He made his home with his family; but the main part of his life was spent with his staff.

FLOTTENRICHTER KRANZBÜHLER: And where did he live when his staff was transferred to the so-called "Koralle" quarters in the neighborhood of Berlin in the autumn of 1943?

GODT: He lived at his headquarters, where his family also lived—at least for some time. His official discussions, however, usually lasted till late in the evening.

FLOTTENRICHTER KRANZBÜHLER: In other words, from that time on he lived constantly in the naval officers' quarters?

GODT: Yes.

FLOTTENRICHTER KRANZBÜHLER: You were in a better position than almost any of the other officers to observe the Admiral's career at close quarters. Can you tell me what you think were the motives behind the military orders he issued?

THE PRESIDENT: You can't speak about the motives of people. You can't give evidence about other people's minds. You can only give evidence of what they said and what they did.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I still think that an officer who lived with another officer for years must have a certain knowledge of his motives, based on the actions of the officer in question and on what that officer told him. However, perhaps I may put my question rather differently.

THE PRESIDENT: He can give evidence about his character, but he can't give evidence about his motives.

FLOTTENRICHTER KRANZBÜHLER: Then I shall question him on his character, Your Honor.

Witness, can you tell me whether Admiral Dönitz ever expressed selfish motives to you in connection with any other orders he gave or any of his actions?

THE PRESIDENT: Dr. Kranzbühler, that is the same thing, the same question again, really.

FLOTTENRICHTER KRANZBÜHLER: I beg your pardon, Mr. President. I meant it to be a different question.

THE PRESIDENT: Nobody is charging him with being egotistical or anything of that sort. He is charged with the various crimes that are charged against him in the Indictment.

FLOTTENRICHTER KRANZBÜHLER: Then I shall ask a direct question based on the Prosecution's opinion.

The Prosecution judged Admiral Dönitz to be cynical and opportunistic. Does that agree with your own judgment?

GODT: No.

FLOTTENRICHTER KRANZBÜHLER: How would you judge him?

GODT: As a man whose mind was fixed entirely on duty, on his work, his naval problems, and the men in his service.

FLOTTENRICHTER KRANZBÜHLER: Mr. President, I have no further questions to put to this witness.

THE PRESIDENT: Do any other members of the defendants' counsel want to ask any questions?

[There was no response.]

COL. PHILLIMORE: My Lord, might I first mention the documents that I put in in cross-examination this morning, or rather it was a document which had been in before. It was D-658, GB-229. That is the document dealing with Bordeaux, and there was a dispute as to whether it was from the Bordeaux Commando Raid. The dispute was as to whether it was from the SKL, that is the Naval

War Staff Diary, or from the war diary of some lower formation. My Lord, I have had the matter confirmed with the Admiralty, and I will produce the original for defense counsel; it comes from the SKL War Diary, Tagebuch der Seekriegsleitung, and it is from Number 1 Abteilung, Teil A—that is part A—for December 1942. So it is from the War Diary of the Defendant Raeder and the witness.

You have said, Witness, that you don't recollect protesting against this order of 17 September 1942.

GODT: Yes.

COL. PHILLIMORE: I will try and refresh your memory. Would you look at a document, D-865?

That's GB-458, My Lord; that is an extract from an interrogation of Admiral Dönitz on 6 October. I should say that the record was kept in English and therefore the translation into German does not represent necessarily the Admiral's actual words.

[Turning to the witness.] Would you look at the second page of that document at the end of the first paragraph. It is the end of the first paragraph on Page 207 in the English text. The Admiral is dealing with the order of 17 September 1942, and in that last sentence in that paragraph he says:

> "I remember that Captain Godt and Captain Hessler were opposed to this telegram. They said so expressly because, as they said, 'it might be misunderstood.' But I said, 'I must pass it on now to these boats to prevent this 1 percent of losses. I must give them a reason, so that they do not feel themselves obliged to do that."

Do you remember protesting now, saying "That can be misunderstood"?

GODT: No, I do not recall that.

COL. PHILLIMORE: And a further extract on Page 3 of the English translation, the bottom of Page 2 of the German:

> "So I sent a second telegram to prevent further losses. The second telegram was sent at my suggestion. I am completely and personally responsible for it, because both Captain Godt and Captain Hessler expressly stated they thought the telegram ambiguous or liable to misinterpretation."

Do you remember that now?

GODT: No, I do not recall that.

COL. PHILLIMORE: Would you look at a further statement to the same effect, on Page 5 of the English, first paragraph; Page 4 of the German text, third paragraph. He has been asked the question:

"Why was it necessary to use a phrase like the one that I read to you before: Efforts to rescue members of the crew were counter to the most elementary demands of warfare for the destruction of enemy ships and crews?"

It is the last clause of the first sentence, and he answered:

"These words do not correspond to the telegram. They do not in any way correspond to our actions in the years of 1939, 1940, 1941 and 1942, as I have plainly shown you through the *Laconia* incident. I would like to emphasize once more that both Captain Godt and Captain Hessler were violently opposed to the dispatch of this telegram."

Do you still say that you don't remember protesting against the sending of that telegram?

GODT: I have stated repeatedly that I do not remember it.

COL. PHILLIMORE: I will show you one more extract, Document D-866, which will become GB-459. That is a further interrogation on 22 October. The first question on the document is:

"Do you believe that this order is contrary to the Prize Regulations issued by the German Navy at the beginning of the war?"

And the last sentence of the first paragraph of the answer is:

"Godt and Hessler said to me, 'Don't send this message. You see, it might look odd some day. It might be misinterpreted.' "

You don't remember using those words?

GODT: No.

COL. PHILLIMORE: You were an experienced staff officer, were you not?

GODT: Yes.

COL. PHILLIMORE: You knew the importance of drafting an operational order with absolute clarity, did you not?

GODT: Yes.

COL. PHILLIMORE: These orders you were issuing were going to young commanders between 20 and 30 years of age, were they not?

GODT: Certainly not as young as 20. They would be in their late twenties, most probably.

COL. PHILLIMORE: Yes. Do you say that this order is not ambiguous?

GODT: Yes. Perhaps if you take one sentence out of the context you might have some doubt, but not if you read the entire order.

COL. PHILLIMORE: What was the point of the words: "Rescue runs counter to the most elementary demands of warfare for the destruction of enemy ships and crews"?

[There was no response.] Show it to him, will you?

[The document was submitted to the witness.]

What was the point of those words, if this was merely a nonrescue order?

GODT: It was served to motivate the remainder of the order and to put on an equal level all the ships and crews which were fighting against our U-boats.

COL. PHILLIMORE: You see, all your orders were so clear, were they not? Have you got the Defense documents there in the witness box?

GODT: I think so—no.

COL. PHILLIMORE: Look at the Defense Document Number Dönitz-8, Page 10. It is on Page 10 of that book. Let me just read you the second paragraph:

> "U-boats may instantly attack, with all the weapons at their command, enemy merchant vessels recognized with certainty as armed, or announced as such, on the basis of unimpeachable evidence in the possession of the Naval Operations Staff."

The next sentence:

> "As far as circumstances permit, measures shall be taken for the rescue of the crew, after the possibility of endangering the U-boat is excluded."

Now, no commander could go wrong with that order, could he? It is perfectly clear.

Look at another one, D-642, at Page 13. It is the last paragraph of the order, on Page 15. Now, this is a nonrescue order. Have you got it? Paragraph E, Standing Order 154:

> "Do not rescue crew members or take them aboard and do not take care of the ship's boats. Weather conditions and distance from land are of no consequence. Think only of the safety of your own boat and try to achieve additional success as soon as possible.
>
> "We must be harsh in this war. The enemy started it in order to destroy us; and we have to act accordingly."

Now, that was perfectly clear, was it not? That was a "nonrescue" order?

GODT: It was just as clear as the order we are talking about.

COL. PHILLIMORE: Look at one or two more and then let me come back to that order; Page 45, another order:

"Order from Flag Officer, U-boats"—reading the third line—

"to take on board as prisoners captains of sunk ships with their papers, if it is possible to do so without endangering the boat or impairing its fighting capacity."

It is perfectly clear to anybody exactly what was intended, is it not?

GODT: That is not an order at all; it only reproduces an extract from the War Diary.

COL. PHILLIMORE: Yes, reciting the words of the order; and then, on the next page in Paragraph 4:

"Try under all circumstances to take prisoners if that can be done without endangering the boat"—Again, perfectly clear.

Look at the next page, Page 47, Paragraph 1 of your order of the 1 June 1944, the last sentence:

"Therefore every effort must be made to bring in such prisoners, as far as possible, without endangering the boat."

Now, you have told us that this order of 17 September 1942 was intended to be a nonrescue order; that is right, is it not?

GODT: Yes, certainly.

COL. PHILLIMORE: I ask you again, what was meant by the sentence: "Rescue runs counter to the most elementary demands of warfare for the destruction of enemy ships and crews"?

GODT: That is the motivation of the rest of the order, which states that ships with crews armed and equipped to fight U-boats were to be put on the same level.

COL. PHILLIMORE: Why do you speak about the destruction of crews if you do not mean the destruction of crews?

GODT: The question is whether the ships and their crews were to be destroyed; and that is something entirely different from destroying the crews after they had left the ship.

COL. PHILLIMORE: And that is something entirely different from merely not rescuing the crews; isn't that a fact?

GODT: I do not quite understand that question.

COL. PHILLIMORE: Destruction of crews is quite different from nonrescue of crews?

GODT: Destruction—as long as the ship and crew are together.

COL. PHILLIMORE: You are not answering the question, are you? But if you want it again: Destruction of crews is quite different from nonrescue of crews?

GODT: The destruction of the crew is different from the non-rescue of survivors, yes.

COL. PHILLIMORE: Were those words merely put in to give this order what you described as a "lively character," which an order should have?

GODT: I cannot give you the details; I have already said that I do not remember in detail the events leading up to this order.

THE PRESIDENT: Colonel Phillimore, the Tribunal has already said to the witness that the document speaks for itself.

COL. PHILLIMORE: Yes.

[Turning to the witness.] Would you just look at the next document in the Prosecution book, that is D-663, at the last sentence of that document? In view of the desired destruction of ships' crews, are you saying that it was not your intention at this time to destroy the crews if you could?

GODT: I thought we were talking about survivors.

COL. PHILLIMORE: Well, it is the same thing, to some extent, is it not; ships' crews, once they are torpedoed, become survivors?

GODT: Then they would be survivors; yes.

COL. PHILLIMORE: Will you now answer the question? Was it not your intention at this time to destroy the crews, or survivors if you like, if you could?

GODT: If you mean survivors; the question can refer to two things. As regards survivors—no.

COL. PHILLIMORE: If you are not prepared to answer the question, I will pass on.

Do you remember the case of Kapitänleutnant Eck?

GODT: I only heard of the case of Kapitänleutnant Eck from American and British officers, and only after I came to Germany.

COL. PHILLIMORE: Do you know that he was on his first voyage when his U-boat sank the *Peleus* and then machine-gunned the survivors? Do you know that?

GODT: Yes.

COL. PHILLIMORE: He had set out from the 5th U-boat flotilla at Kiel where Möhle was briefing the commanders, had he not?

GODT: He must have.

COL. PHILLIMORE: Yes. Now, if—instead of taking the whole blame upon himself for the action which he took—if he had defended his action under this order of 17 September 1942, are

you saying that you could have court-martialed him for disobedience?

GODT: It might have been possible.

COL. PHILLIMORE: In view of the wording of your order, do you say that?

GODT: That would have been a question for the court-martial to decide. Moreover, Eck, as far as I heard, did not refer to this order.

COL. PHILLIMORE: Can you explain to the Tribunal how the witness Möhle was allowed to go on briefing that this was an annihilation order, from September 1942 to the end of the war?

GODT: I do not know how Möhle came to interpret this order in such a way. In any case he did not ask me about it.

COL. PHILLIMORE: You realize that he is putting his own life in great jeopardy by admitting that he briefed as he did, don't you.

GODT: Yes.

COL. PHILLIMORE: You also know, don't you, that another commander he briefed was subsequently seen either by yourself or by Admiral Dönitz before he went out?

GODT: Yes.

COL. PHILLIMORE: Again when he came back?

GODT: In general, yes, almost always.

COL. PHILLIMORE: In general. Are you seriously telling the Tribunal that none of these officers who were briefed that this was an annihilation order, that none of them raised the question either with you or with Admiral Dönitz?

GODT: In no circumstances was this order discussed.

COL. PHILLIMORE: But I suggest to you now that this order was very carefully drafted to be ambiguous; deliberately, so that any U-boat commander who was prepared to behave as he did was entitled to do so under the order. Isn't that right?

GODT: That is an assertion.

COL. PHILLIMORE: And that you and Hessler, you tried to stop this order being issued?

GODT: I have already said that I do not remember this.

COL. PHILLIMORE: My Lord, I have no further questions.

THE PRESIDENT: Is there any other cross-examination? Do you wish to re-examine, Dr. Kranzbühler?

FLOTTENRICHTER KRANZBÜHLER: Do you know that Korvettenkapitän Möhle has testified before this Tribunal that he told only a very few officers about his interpretation of the *Laconia* order?

GODT: I read that in the affidavit which Möhle made before British officers last year.

FLOTTENRICHTER KRANZBÜHLER: Do you know that Möhle testified here personally that he did not speak to Admiral Dönitz, yourself, or Captain Hessler about his interpretation of the *Laconia* order, although he repeatedly visited your staff?

GODT: I know that. I cannot tell you at the moment whether I know it from the affidavit which Möhle made last year or from another source.

FLOTTENRICHTER KRANZBÜHLER: You have been confronted with Admiral Dönitz' testimony that you and Captain Hessler opposed the *Laconia* order. You stated that Admiral Dönitz gave an exaggerated account of your objection to this order, so as to take the whole responsibility upon himself?

THE PRESIDENT: Wait a minute. I do not think you can ask him that question, Dr. Kranzbühler, whether it is possible that the Admiral was over-emphasizing what he said.

FLOTTENRICHTER KRANZBÜHLER: Then I will not put this question. Your Honor, I have no further question to put to this witness.

THE PRESIDENT: The witness can retire.

FLOTTENRICHTER KRANZBÜHLER: Then with the permission of the Tribunal I would like to call Captain Hessler as my next witness.

THE PRESIDENT: Yes.

[The witness Hessler took the stand.]

THE PRESIDENT: Will you state your full name?

GÜNTHER HESSLER (Witness): Günther Hessler.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and will add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

FLOTTENRICHTER KRANZBÜHLER: Captain Hessler, when did you enter the Navy?

HESSLER: In April 1927.

FLOTTENRICHTER KRANZBÜHLER: What was your last grade?

HESSLER: Fregattenkapitän.

FLOTTENRICHTER KRANZBÜHLER: You are related to Admiral Dönitz. Is that correct?

HESSLER: Yes. I married his only daughter in November 1937.

FLOTTENRICHTER KRANZBÜHLER: When did you enter the U-boat service?

HESSLER: I started my U-boat training in April 1940.

FLOTTENRICHTER KRANZBÜHLER: Were you given any information during your period of training on economic warfare according to the Prize Ordinance?

HESSLER: Yes. I was informed of it.

FLOTTENRICHTER KRANZBÜHLER: Was the so-called "prize disc" used which has just been submitted to you?

HESSLER: Yes, I was instructed about it.

FLOTTENRICHTER KRANZBÜHLER: Will you tell the Tribunal briefly just what the purpose of this "prize disc" is?

HESSLER: It was a system of discs by means of which, through a simple mechanical process in a very short time one could ascertain how to deal with neutral and enemy merchant ships—whether, for instance, a neutral vessel carrying contraband could be sunk or captured, or whether it must be allowed to pass.

This disc has another great advantage in that it indicates at the same time the particular paragraph of the Prize Ordinance in which the case in question may be found. This made it possible to cut down the time required for the investigation of a merchant ship to a minimum.

FLOTTENRICHTER KRANZBÜHLER: That means that the disc was in the nature of a legal adviser to the commander?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: I now submit this disc to the Tribunal as Exhibit Dönitz-95.

In your training were you told what attitude you were required to adopt toward shipwrecked survivors? If so, what was it?

HESSLER: Yes. The rescuing of survivors is a matter of course in naval warfare and must be carried out as far as military measures permit. In U-boat warfare it is utterly impossible to rescue survivors, that is, to take the entire crew on board, for space conditions in the U-boat do not permit of any such action. The carrying out of other measures, such as, approaching the lifeboats,

picking up swimmers and transferring them to the lifeboats, handing over provisions and water, is, as a rule, impossible, for the danger incurred by the U-boat is so great throughout the operational zone that none of these measures can be carried out without endangering the boat too much.

FLOTTENRICHTER KRANZBÜHLER: You yourself went out on cruises as commander soon after receiving these instructions?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: From when to when?

HESSLER: From October 1940 till November 1941.

FLOTTENRICHTER KRANZBÜHLER: In what areas did you operate?

HESSLER: South of Iceland, west of the North Channel, in the waters between Cape Verde and the Azores, and in the area west of Freetown.

FLOTTENRICHTER KRANZBÜHLER: What success did you have against merchant shipping?

HESSLER: I sank 21 ships, totaling more than 130,000 tons.

FLOTTENRICHTER KRANZBÜHLER: You received the Knight's Cross?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: How did you act toward the survivors of the crews of the ships you sank?

HESSLER: In most cases the situation was such that I was compelled to leave the scene of the wreck without delay on account of danger from enemy naval or air forces. In two cases the danger was not quite so great. I was able to approach the lifeboats and help them.

FLOTTENRICHTER KRANZBÜHLER: What were the ships concerned?

HESSLER: Two Greek ships: the *Papalemos* and *Pandias*.

FLOTTENRICHTER KRANZBÜHLER: How did you help the lifeboats?

HESSLER: First of all I gave the survivors their exact position and told them what course to set in order to reach land in their lifeboats. In the second place, I gave them water, which is of vital importance for survivors in tropical regions. In one case I also furnished medical aid for several wounded men.

FLOTTENRICHTER KRANZBÜHLER: Did your personal experience with torpedoed ships dispose you to caution with regard to rescue measures?

HESSLER: Yes. The experienced U-boat commander was justifiably suspicious of every merchantman and its crew, no matter how innocent they might appear. In two cases this attitude of suspicion saved me from destruction.

This happened in the case of the steamer *Kalchas,* a British 10,000 ton ship which I torpedoed north of Cape Verde. The ship had stopped after being hit by the torpedo. The crew had left the ship and were in the lifeboats, and the vessel seemed to be sinking. I was wondering whether to surface in order at least to give the crew their position and ask if they needed water. A feeling which I could not explain kept me from doing so. I raised my periscope to the fullest extent and just as the periscope rose almost entirely out of the water, sailors who had been hiding under the guns and behind the bulwark, jumped up, manned the guns of the vessel —which so far had appeared to be entirely abandoned—and opened fire on my periscope at very close range, compelling me to submerge at full speed. The shells fell close to the periscope but were not dangerous to me.

In the second case, the steamer *Alfred Jones,* which I torpedoed off Freetown, also seemed to be sinking. I wondered whether to surface, when I saw in one of the lifeboats two sailors of the British Navy in full uniform. That aroused my suspicions. I inspected the ship at close range—I would say from a distance of 50 to 100 meters—and established the fact that it had not been abandoned, but that soldiers were still concealed aboard her in every possible hiding-place and behind boarding. When I torpedoed the ship this boarding was smashed. I saw that the ship had at least four to six guns of 10 and 15 centimeter caliber and a large number of depth-charge chutes and antiaircraft guns behind the bulwarks. Only a pure accident, the fact that the depth charges had not been timed, saved me from destruction.

It was clear to me, naturally, after such an experience, that I could no longer concern myself with crews or survivors without endangering my own ship.

FLOTTENRICHTER KRANZBÜHLER: When did you enter the staff of the Commander, U-boats.

HESSLER: In November 1941.

FLOTTENRICHTER KRANZBÜHLER: You were First Naval Staff Officer?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Was it your task to instruct the commanders on orders issued before they left port?

HESSLER: Yes, I did that.

FLOTTENRICHTER KRANZBÜHLER: And what was the connection between the instructions given by you and those to be given by the flotilla chiefs—Korvettenkapitän Möhle, for instance?

HESSLER: The commanders whom I had to instruct received a complete summary of all questions concerning procedure at sea. The flotilla chiefs were charged with ascertaining that all commanders should receive a copy of the most recent orders issued by Commander, U-boats. I might say that these were limited instructions, compared with the full instructions they received from me.

FLOTTENRICHTER KRANZBÜHLER: Did these full instructions include the instructions to the commanders regarding the treatment of survivors?

HESSLER: Yes, in much the same style as the instructions I received during my training in the U-boat school.

FLOTTENRICHTER KRANZBÜHLER: Was any change made in the manner of instruction after the *Laconia* order of September 1942?

HESSLER: Yes. I related the incident briefly to the commanders and told them:

"Now the decision as to whether the situation at sea permits of rescue attempts no longer rests with you. Rescue measures are prohibited from now on."

FLOTTENRICHTER KRANZBÜHLER: Do you mean to say that during the whole of the rest of the war—that is, for 2½ years—the commanders continued to be told about the *Laconia* incident, or was that only done immediately after this incident in the autumn of 1942?

HESSLER: I would say up to January 1943 at the latest. After that, no further mention was made of it.

FLOTTENRICHTER KRANZBÜHLER: You mean, no further mention of the incident?

HESSLER: No further mention of the *Laconia* incident.

FLOTTENRICHTER KRANZBÜHLER: But the orders issued as a result of it were mentioned?

HESSLER: Yes, that a specific order not to take any more rescue measures had been issued.

FLOTTENRICHTER KRANZBÜHLER: Did the commanders at any time receive orders or suggestions from you or from one of your staff to shoot at survivors?

HESSLER: Never.

FLOTTENRICHTER KRANZBÜHLER: Were the commanders told by you about the order to take captains and chief engineers on board, if possible?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Was it emphasized in those instructions that this was only to take place when it could be done without endangering the U-boat?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Do you know of the incident of U-boat *U-386* which passed some airmen shot down in the Bay of Biscay?

HESSLER: I remember this incident very distinctly.

FLOTTENRICHTER KRANZBÜHLER: Then you also remember that this incident took place in the autumn of 1943?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: Did Commander, U-boats, think, with regard to this incident, that the U-boat commander should have shot at the airmen in the rubber dinghy?

HESSLER: No, on the contrary, he was annoyed because the crew of the aircraft had not been brought along by the U-boat.

FLOTTENRICHTER KRANZBÜHLER: Did any other person or persons on the staff put forward the view I have just expressed?

HESSLER: No, we knew every one on the staff, and it is out of the question that any member of the staff held a different opinion.

FLOTTENRICHTER KRANZBÜHLER: Korvettenkapitän Möhle testified that he asked Korvettenkapitän Kuppisch, who was a member of your staff, for an explanation of the *Laconia* order and that Kuppisch told him about the incident of the *U-386;* and told it in such a way as to make it appear that Commander, U-boats, ordered the shooting of survivors.

HESSLER: That is impossible.

FLOTTENRICHTER KRANZBÜHLER: Why?

HESSLER: Because Kuppisch took his U-boat out to sea in July 1943 and never returned from that cruise. The incident of *U-386* happened in the autumn of 1943, which was later.

FLOTTENRICHTER KRANZBÜHLER: Korvettenkapitän Möhle in his first statement left the possibility open that this story about *U-386* might have come from you. Did you discuss this matter with him?

HESSLER: No.

FLOTTENRICHTER KRANZBÜHLER: Are you certain of that?

HESSLER: Absolutely certain.

FLOTTENRICHTER KRANZBÜHLER: Did you hear of the interpretation given by Korvettenkapitän Möhle to this *Laconia* order?

HESSLER: After the capitulation—that is, after the end of the war and then through a British officer.

FLOTTENRICHTER KRANZBÜHLER: How do you explain the fact that of the very few officers who received these instructions from Möhle, none raised the question of the interpretation of this order with Commander, U-boats?

HESSLER: I have only one explanation of this; and that is that these officers thought Korvettenkapitän Möhle's interpretation completely impossible, and not in agreement with the interpretation of Commander, U-boats.

FLOTTENRICHTER KRANZBÜHLER: Therefore, they did not think that clarification was necessary?

HESSLER: They did not think that clarification was necessary.

FLOTTENRICHTER KRANZBÜHLER: The Prosecution's charges against Admiral Dönitz are based to a great extent on extracts from the War Diary of the SKL and Commander, U-boats, documents which are in the possession of the British Admiralty. How is it possible that all these data fell into the hands of the British Admiralty—and *in toto?*

HESSLER: It was the Admiral's desire that the war diaries of the U-boats and of Commander, U-boats, which formed part of the Navy archives, should be preserved and not be destroyed.

FLOTTENRICHTER KRANZBÜHLER: Did he say anything to you about this?

HESSLER: Yes, in that form, when I told him that our own staff data had been completely destroyed.

FLOTTENRICHTER KRANZBÜHLER: Did he give any reason as to why he did not want the Navy archives destroyed?

HESSLER: He wanted to keep these data until after the war, and the Naval Operations Staff had nothing to conceal.

FLOTTENRICHTER KRANZBÜHLER: Is that your opinion or is that the opinion which Admiral Dönitz expressed to you?

HESSLER: He told me, "We have a clear conscience."

FLOTTENRICHTER KRANZBÜHLER: Immediately after the capitulation you were repeatedly interrogated on questions of U-boat warfare and you asked the senior officer present whether the German U-boat command would be accused by the British Navy of criminal acts. Is that right?

HESSLER: Yes.

FLOTTENRICHTER KRANZBÜHLER: And what answer did you receive?

HESSLER: An unhesitating "No."

FLOTTENRICHTER KRANZBÜHLER: I have no further questions, Mr. President.

THE PRESIDENT: Does any defendant's counsel wish to ask any questions?

[There was no response.]

The Prosecution?

COL. PHILLIMORE: With the Tribunal's permission I would not propose to cross-examine and ask leave to adapt my cross-examination of the last witness because it is the same ground substantially.

THE PRESIDENT: Very well.

Does any other Prosecutor wish to cross-examine?

Yes, Dr. Kranzbühler?

FLOTTENRICHTER KRANZBÜHLER: I have no further questions to ask the witness, Mr. President.

THE PRESIDENT: In the interrogation of the Defendant Dönitz he said that Godt and Hessler—that is you, is it not . . . ?

HESSLER: Yes.

THE PRESIDENT: . . . told him, "Don't send that signal. You see, one day it might appear in the wrong; it might be misinterpreted." Did you say that?

HESSLER: I do not remember. As consulting officers, we often had to oppose orders which were being drafted, and we were entitled to do so; but I do not remember whether Admiral Godt and I did so in this case.

THE PRESIDENT: Then later in this interrogation the Defendant Dönitz said:

> "I am completely and personally responsible for it"—that is that order—"because Captains Godt and Hessler both expressly stated that they considered the telegram as ambiguous or liable to be misinterpreted."

Did you say that this telegram was ambiguous or liable to be misinterpreted?

HESSLER: I do not remember that point. I do not think I thought the telegram was ambiguous.

THE PRESIDENT: And lastly the Defendant Dönitz said this:

"I would like to emphasize once more that both Captain Godt and Captain Hessler were violently opposed to the sending of the telegram."

Do you say that you were not violently opposed to the sending of the telegram?

HESSLER: It is possible that we opposed the dispatch of the telegram because we did not consider it necessary to refer to the matter again.

THE PRESIDENT: Did you say anything to the Defendant Dönitz about this telegram at all?

HESSLER: At the drafting of the telegram we talked it over, just as we discussed every wireless message drafted by us. As time went on, we drafted many hundreds of wireless messages so that it is impossible to remember just what was said in each case.

THE PRESIDENT: You began your answer to that question: "At the drafting of this telegram . . ."

Do you remember what happened at the drafting of this telegram?

HESSLER: I can remember only that in the course of the so-called *Laconia* incident a great many wireless messages were sent and received; that many wireless messages were drafted; and that, in addition, U-boat operations were going on in the Atlantic, so that I cannot recall details of what happened when the message was drafted.

THE PRESIDENT: You said now that it was possible that you and Admiral Godt were opposed to the sending of this telegram. Is that your answer?

HESSLER: It is possible, but I cannot say.

THE PRESIDENT: Very well. Dr. Kranzbühler, the witness can retire.

[The witness left the stand.]

FLOTTENRICHTER KRANZBÜHLER: Mr. President, this morning I had already advised the Prosecution that I shall not call the fourth witness scheduled—that is Admiral Eckardt. Therefore, my examination of witnesses has been concluded.

THE PRESIDENT: And that concludes your case for the present?

FLOTTENRICHTER KRANZBÜHLER: That concludes my case, but with the permission of the Tribunal I would like to clarify one more question which deals with documents.

The Tribunal has refused all documents which refer to contraband, control ports, and the "Navicert" system. These questions are of some importance if I am to give a correct exposition later on.

May I interpret the Tribunal's decision as saying that these documents are not to be used now as evidence but that I may have permission to use them later on in my legal exposition?

THE PRESIDENT: Dr. Kranzbühler, the Tribunal thinks that is a question which may be reserved until the time comes for you to make your speech.

FLOTTENRICHTER KRANZBÜHLER: Thank you, Mr. President. Then I have concluded my case.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 15 May 1946 at 1000 hours.]

ONE HUNDRED AND THIRTIETH DAY

Wednesday, 15 May 1946

Morning Session

[The witness Emil Puhl took the stand.]

THE PRESIDENT: Will you state your full name?

EMIL PUHL (Witness): Emil Johann Rudolf Puhl.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. SAUTER: Witness Puhl, you were formerly Vice President of the Reichsbank?

PUHL: Yes.

DR. SAUTER: If I am correctly informed, you were a member of the Directorate of the Reichsbank already at the time of Dr. Schacht?

PUHL: Yes.

DR. SAUTER: When Dr. Schacht left, you were one of the few gentlemen who remained in the Reichsbank?

PUHL: Yes.

DR. SAUTER: You were then named by Hitler, on the suggestion of the Defendant Funk, to be Managing Vice President of the Reichsbank?

PUHL: Yes.

DR. SAUTER: When was that?

PUHL: During the year 1939.

DR. SAUTER: During the year 1939. You have said that you were Managing Vice President, and I presume this was due to the fact that banking was not the special field of the Defendant Funk while you were a banking expert, and that Funk in addition had charge of the Reich Ministry of Economics. Is that correct?

PUHL: Yes, but there was another reason, namely, the division of authority between official business on one side, and the handling of personnel on the other.

DR. SAUTER: The actual conduct of business was apparently your responsibility?

PUHL: Yes.

DR. SAUTER: Hence, the title Managing Vice President?

PUHL: Yes. May I make a few comments on this?

DR. SAUTER: Only if it is necessary in the interests of the case.

PUHL: Yes. The business of the Directorate of the Reichsbank was divided among a number of members of the Directorate. Every member had full responsibility for his own sphere. The Vice President was the *primus inter pares,* his main task was to act as chairman at meetings to represent the President in the outside world and to deal with problems of general economic and banking policy.

DR. SAUTER: Witness, the Defendant Funk referred to you as a witness as early as December. You know that, don't you? And accordingly, you were interrogated at the camp where you are now accommodated, I believe in Baden-Baden . . .

PUHL: Near Baden-Baden.

DR. SAUTER: . . . interrogated on 1 May?

PUHL: Yes.

DR. SAUTER: Two days later you were again interrogated?

PUHL: Yes.

DR. SAUTER: On 3 May?

PUHL: Yes.

DR. SAUTER: Do you know why the matters on which you were questioned on 3 May were not dealt with during the interrogation on 1 May?

PUHL: I have before me the affidavit dated 3 May.

DR. SAUTER: 3 May. That deals with these business affairs with the SS.

PUHL: Yes. But I was questioned on this subject already on 1 May, only very briefly, and on 3 May there was a second interrogation for the purpose of discussing it in more detail.

DR. SAUTER: Did you not mention these business affairs of the Reichsbank with the SS during your interrogation on 1 May?

PUHL: Yes.

DR. SAUTER: Did you mention them?

PUHL: A short statement was made.

DR. SAUTER: During the interrogation of 1 May?

PUHL: Yes. At any rate, the statement on 3 May made during the interrogation was only a more detailed record of what had already been briefly discussed before.

DR. SAUTER: I have the record of your interrogation on 1 May before me; I read through it again today. But as far as I can see, it contains no mention at all of business affairs with the SS. You must be speaking now of another interrogation?

PUHL: Yes.

MR. DODD: Mr. President, I think perhaps I can be helpful in this apparent confusion. The interrogatory which was authorized by the Tribunal was taken on 1 May, but on that same day, and independent of these interrogatories, a member of our staff also interviewed this witness. But it was a separate interview. It wasn't related to the interrogatory, and I think that is the source of the confusion.

THE PRESIDENT: Very well.

DR. SAUTER: Were you interrogated twice about these transactions with the SS?

PUHL: Yes, twice during the days around 1 May; that is correct.

DR. SAUTER: Do you still remember the affidavit which you signed on 3 May?

PUHL: On 3 May, yes.

DR. SAUTER: It is the affidavit which deals with these transactions with the SS. Are your statements in this affidavit correct?

PUHL: Yes.

DR. SAUTER: Witness, have you been interrogated on these matters again since that time, since 3 May?

PUHL: Yes.

DR. SAUTER: When?

PUHL: Here in Nuremberg.

DR. SAUTER: When were you interrogated?

PUHL: During the last few days.

DR. SAUTER: I see. Today is Wednesday, when was it?

PUHL: Friday, Monday, Tuesday.

DR. SAUTER: Yesterday?

PUHL: Yes.

DR. SAUTER: On this matter?

PUHL: Yes.

DR. SAUTER: Was a film also shown to you here?

PUHL: Yes.

DR. SAUTER: Once or twice?

PUHL: Once.

DR. SAUTER: Had you seen this film before?

PUHL: No.

DR. SAUTER: Did you recognize clearly what was presented in the film?

PUHL: Yes.

DR. SAUTER: I ask because, as you know, the film runs very quickly and is very short; the Prosecution showed it twice in the courtroom so that one might follow it fairly well. Did one showing suffice to make clear to you what the film contained?

PUHL: Yes.

DR. SAUTER: Then will you tell me what you saw in it, only what you saw in the film, or what you think you saw.

PUHL: Yes. The film was taken in front of the safes of our bank at Frankfurt-on-Main, the usual safes with glass doors, behind which one could see the locked cases and containers, which had apparently been deposited there. It was the usual picture presented by such strong rooms. In front of these safes were several containers which had been opened so that their contents could be seen—coins, jewelry, pearls, bank-notes, clocks.

DR. SAUTER: What sort of clocks?

PUHL: Large alarm clocks.

DR. SAUTER: Nothing else? Didn't you see anything else in the film?

PUHL: Apart from these objects?

DR. SAUTER: Apart from these, shall we say, valuables, didn't you see anything else that is alleged to have been kept there?

PUHL: No, no.

DR. SAUTER: Only these valuables? Please go on.

PUHL: I noticed that among these valuables there were coins, apparently silver coins, and also bank-notes, obviously American bank-notes.

DR. SAUTER: Correct.

PUHL: It was astonishing that these things were given to us for safe-keeping, because if they had come to the knowledge of our officials, then no doubt . . .

DR. SAUTER: Speak slowly, please.

PUHL: . . . no doubt the bank notes would have been immediately turned over to the foreign exchange department, since, as is known,

a general order existed for the turning in of foreign bank notes which particularly were much in demand.

Something similar applies to the coins. These, too, ought to have been transferred to the treasury in accordance with the regulations and routine of business, that is to say, they should have been purchased for the accounts of the Reich.

DR. SAUTER: That is what you noticed in the film?

PUHL: Yes.

DR. SAUTER: And nothing else?

PUHL: No.

DR. SAUTER: Witness, valuable articles entrusted to the Reichsbank for safekeeping were supposed to have been kept in the Reichsbank in that way. Now I have been asking myself whether your Reichsbank really stored the valuables entrusted to it in the manner apparent from the film and I therefore want to ask this question of you: Do you as Managing Vice President of the Reichsbank know how valuables which were handed over for safekeeping in the strong-rooms were kept, for instance, in Berlin or in Frankfurt, where this film was taken?

PUHL: Yes.

DR. SAUTER: Please tell the Court.

PUHL: The outer appearance of the safe installations in Berlin was somewhat similar to that in Frankfurt, and probably similar to any other large bank. These things were known to us as "closed deposits," a banking term, and were kept, as the name indicates, in closed containers. Space for these was provided by us and paid for by the depositors, according to the size in each case.

DR. SAUTER: Were these things kept—for instance, in Berlin or in Frankfurt—exactly as shown in the film?

PUHL: Well, I had the impression that the things of which we are now talking had been put there expressly for the purpose of taking the film.

DR. SAUTER: For the film. Do you recollect seeing a sack, which I think was shown in the film, with the label "Reichsbank Frankfurt?"

PUHL: Yes, I saw a sack labeled "Reichsbank;" I cannot say whether "Reichsbank Frankfurt."

DR. SAUTER: As far as I know, it had "Reichsbank Frankfurt" on it. For that reason we assumed that the film was taken at Frankfurt, and the Prosecution confirmed that.

MR. DODD: I don't like to interrupt but I think we should be careful about this statement. There have been two mistakes of some

slight importance already. We didn't show the film twice before this Tribunal and that bag doesn't bear the legend "Frankfurt." It simply says "Reichsbank." And it was the Schacht film that was shown twice here, because it moved rather quickly.

DR. SAUTER: Witness, will you continue with your reply to the question. I can put it in this way: Did the Reichsbank keep gold articles and the like in such sacks?

PUHL: If I understand you correctly, you are asking this: When valuables were deposited with us, were they deposited in open sacks? Is that correct?

DR. SAUTER: I do not know what procedure you had.

PUHL: We at any rate had closed deposits, as the name implies. Of course, it may be a sack which is closed; that is quite possible.

DR. SAUTER: So far as I saw in banks at Munich, the things which were deposited there in increased measure during the war were without exception deposited in closed boxes or cases and the like, so that generally the bank did not know at all what was contained in the cases or boxes. Did you in the Reichsbank follow a different procedure?

PUHL: No, it was exactly the same. And the noticeable thing about this sack, as has been said, is the label "Reichsbank." Obviously it is a sack belonging to us and not to any private person.

DR. SAUTER: Then you too, if I may repeat this to avoid any doubt, you too kept in a closed container the valuables, which had been deposited as "closed deposits."

PUHL: Yes.

DR. SAUTER: Or they went to the strongboxes?

PUHL: The word "deposits" might be misleading. The closed containers went to the strong-room. The strong-room consisted of strongboxes where these cases or containers were deposited. Quite independent of that arrangement, we had the "open deposits." Open deposits are those which by initial agreement are administered openly. The strong-rooms for these were located in quite a different part of the building from the so-called main strong-room.

DR. SAUTER: But presumably, we are not concerned here with these open deposits?

PUHL: No.

DR. SAUTER: Now, Witness, I come to the deposits of the SS. These deposits were not in Frankfurt but presumably in Berlin in the central bank.

PUHL: Yes.

DR. SAUTER: Now, will you give details about the discussions which the Defendant Funk had with you regarding the SS deposits. And may I ask you to consider your replies and search your memory very carefully before answering my questions. Naturally I shall allow you time.

First of all, what did you and the Defendant Funk discuss when you talked about these deposits of the SS for the first time?

PUHL: I refer here to my affidavit of 3 May. I had a very simple talk with Herr Funk. It turned on the request of the SS to make use of our bank installations by depositing valuables for which, it was said, there was not sufficient protection in the cellars of the SS building. Perhaps, for the sake of completeness, I may add that "SS," in this connection, always means the Economic Department of the SS.

DR. SAUTER: What did the Defendant Funk speak of at the time? Did he specify exactly what should be accepted for safe-keeping?

PUHL: He mentioned valuables which the SS had brought from the Eastern Territories, which were then in their cellars and which, above all, they requested us to keep in safety.

DR. SAUTER: But did the Defendant Funk tell you in detail what these valuables were?

PUHL: No, not in detail, but he said that in general they were gold, foreign currency, silver, and jewelry.

DR. SAUTER: Gold, foreign currency, silver, jewelry . . .

PUHL: To which I may add that gold and foreign currency had of course to be surrendered to the Reichsbank at any rate.

DR. SAUTER: Gold, foreign currency, silver and jewelry?

PUHL: Yes.

DR. SAUTER: And that was supposed to have been confiscated in the Eastern Territories?

PUHL: Yes.

DR. SAUTER: Did the Defendant Funk tell you at the time why these confiscations had been made, or who had been affected by them?

PUHL: No, that was not stated; the talk, as I have said, was brief.

DR. SAUTER: And what was your reply?

PUHL: I said that this sort of business with the SS would at least be inconvenient for us, and I voiced objections to it. I may add that we, as the Reichsbank, were always very cautious in these

matters, for example, when valuables were offered us by foreign exchange control offices, customs offices, and the like.

DR. SAUTER: What was the actual reason for your objections in the case of the SS?

PUHL: Because one could not know what inconvenient consequences a business connection of this sort might produce.

DR. SAUTER: Witness, that answer does not satisfy me. Did you or the Defendant Funk not wish to have anything to do with the SS at all, or was there some other reason for your objections?

PUHL: The first part of your question I answer with "no." There was no objection on principle, nor could there be; for, after all, every German organization or institution had the legal right to enjoy the services of the Reichsbank.

The circumstances arising out of these confiscations were uncomfortable, like the confiscations of the foreign exchange control offices, *et cetera,* which I mentioned, because one never knew what difficulties might result.

DR. SAUTER: So that, if I understand you well—please correct me if I interpret it wrongly—you voiced objections because these business affairs were somewhat uncomfortable for the Reichsbank, they fell outside the normal scope of business, and were as little welcome to you as, for instance, deposits of the customs authorities or the foreign exchange control offices, and so forth? Only for this reason?

PUHL: Yes. But I have to add something; we were asked whether we would assist the SS in handling these deposits. It was immediately clear, of course, and also expressly stated, that these deposits included foreign currency, and also securities and all sorts of gold coins, *et cetera,* and that the SS people did not quite know how to deal with these things.

DR. SAUTER: Did these things arrive subsequently?

PUHL: Yes. But something else happened before that. After this conversation the head of the Economic Department of the SS, whose name was Pohl, Obergruppenführer Pohl, contacted me. I asked him to come to my office, and there he repeated, what I already knew, namely that he would welcome it if we would take over these valuables as soon as possible.

DR. SAUTER: What was your answer?

PUHL: I confirmed what we had arranged and said, "If you will designate officials from your department, I shall inform our department, and together they can discuss the technical details."

DR. SAUTER: To revert to an earlier stage: What did the Defendant Funk say when you explained during your first conversation with him that you would not willingly take over those things because one often had a lot of trouble with such matters?

PUHL: My objections were subordinated to the broader consideration of assisting the SS, all the more—and this must be emphasized—because these things were for the account of the Reich.

DR. SAUTER: Did you discuss whether these things, particularly gold, should be converted by the Reichsbank or melted down?

PUHL: No, not in detail; it was merely said that the officials of the Reichsbank should offer their good services to the SS.

DR. SAUTER: I do not quite understand. The good services of the Reichsbank officials consist in receiving these valuables into safe-keeping and locking them up?

PUHL: Yes.

DR. SAUTER: Were the services of your officials to go beyond that?

PUHL: Yes, inasmuch as the SS people were to come and remove from the containers whatever had to be surrendered.

DR. SAUTER: For instance, gold coins, foreign currency, *et cetera*?

PUHL: Yes.

DR. SAUTER: Then did you see—to come back to the question already put—did you see what arrived, what the SS delivered?

PUHL: No, not personally. This happened far away from my office, in quite a different building, downstairs in the strong-rooms which I, as Vice President of the Reichsbank, would not normally enter without a special reason.

DR. SAUTER: Did you, as Vice President, visit these strong-rooms frequently?

PUHL: It was a habit of mine, sometimes at an interval of three months or longer, to go through the strong-rooms; if there was some occasion for it, for instance, when there was a visitor to be conducted or some new installation to be discussed, or when there was something of importance beyond mere attendance on the safes and the clients.

DR. SAUTER: But, of course, as Vice President, you had nothing to do with attending to customers?

PUHL: No.

DR. SAUTER: And I should like to put the same question to you with regard to the Defendant Funk. Did the Defendant Funk, who

moreover belonged to the Reichsbank only in part, go to the strong-rooms often?

If so, how often and for what reason? And did he see what had been handed in by the SS?

PUHL: The answer is that Funk, too, went to the strong-rooms on special occasions, for example, when there were foreign visitors. Naturally, I would not know how often, nor whether he saw the SS deposits. That depends on whether the strong-room officials who were conducting him pointed them out to him.

DR. SAUTER: Did you, Witness, see the things which came from the SS—did you see them yourself?

PUHL: No, never.

DR. SAUTER: Never?

PUHL: Never.

DR. SAUTER: Do you think that the Defendant Funk saw them?

PUHL: I cannot tell that, of course; it depends on whether the strong-room officials pointed out specifically: "Here is the deposit of the SS."

DR. SAUTER: Then I presume you cannot give us any information on how these things of the SS were actually kept or how they were packed?

PUHL: No.

DR. SAUTER: Whether in boxes or . . .

PUHL: No, I do not know that.

DR. SAUTER: Did you talk again about this whole affair of the SS deposits with the Defendant Funk?

PUHL: Hardly at all, as far as I can remember. But I must certainly have talked to him a second time, after Herr Pohl had visited me, since it was, of course, my task and my duty to keep Funk informed of everything.

DR. SAUTER: Did the members of the Reichsbank Directorate, the board of directors, attach a special significance to this whole matter so that there might have been occasion to discuss it more frequently? Or was it regarded as just an unpleasant but unimportant sort of business?

PUHL: No. At the beginning there was probably a report on it to the meeting of the Directorate, but then it was not mentioned again.

DR. SAUTER: You cannot recollect having later again talked of the matter with Funk? But it is possible, if I understood you correctly, that after the settlement with SS Obergruppenführer Pohl,

you may again have reported about it briefly? Did I understand you correctly?

PUHL: Yes.

DR. SAUTER: Now, Witness, in your affidavit under Figure 5, you say that among the articles deposited by the SS were jewelry, watches, spectacle frames, gold fillings—apparently these dental fillings—and other articles in large quantities which the SS had taken away from Jews and concentration camp victims and other persons. How do you know that?

PUHL: I know that from my interrogations at Frankfurt.

DR. SAUTER: You were told about these things during your interrogations in Frankfurt after your arrest?

PUHL: And they were shown to me.

DR. SAUTER: You had no knowledge of them while you were free and administered the Reichsbank as Vice President?

PUHL: No, because, I repeat it again, we never discussed this in the Directorate, since it was of no basic significance for currency or banking policy or in any other respect.

DR. SAUTER: Witness, if at that time in 1942 you had known that these were articles which the SS had taken away from many concentration camp victims, would you have received them into safe-keeping?

PUHL: No.

DR. SAUTER: What would you have done?

PUHL: Then we would have come to some decision on the attitude which the bank as a whole should adopt toward this problem.

DR. SAUTER: Who would have had the decisive word?

PUHL: The decision would have been made by the Directorate of the Reichsbank as an executive group, as a corporate body, and then it would have been submitted to the President for countersignature.

DR. SAUTER: Earlier—I must fill in this gap in connection with your affidavit—you expressed yourself in a rather misleading way. You stated earlier: "This was brought to our knowledge, because the SS personnel attempted to convert this material into gold, into cash." And today you say that you heard of it only after your arrest. Apparently, if I understand you correctly, there must be . . .

THE PRESIDENT: Dr. Sauter, I do not understand why you say "earlier." It is the sentence which followed the sentence which you put to him.

DR. SAUTER: Yes, Mr. President.

THE PRESIDENT: Why do you say "earlier" then? Why do you say "earlier"?

DR. SAUTER: In his affidavit—if the wording of the affidavit is correct and there is no misunderstanding—the witness said . . .

THE PRESIDENT: What I am pointing out to you is that the first sentence reads like this: "The material deposited by the SS included all these items taken from Jews, concentration camp victims, and other persons by the SS." And it then goes on, "This was brought to our knowledge by the SS personnel who attempted to convert this material into cash." What you are now putting to him is that that acceptance was put to him earlier. At least that is what I understood you to say.

DR. SAUTER: No; the witness said today that he was told only during his interrogations in Frankfurt-on-Main that these articles had been taken from concentration camp victims, *et cetera.* The affidavit, however, can and must be interpreted in my opinion as saying that he received this information, already before his arrest, through the SS personnel and that apparently is not true. For that reason I asked the witness whether this expression in the affidavit is not a misunderstanding.

Now, Witness, if I may repeat this: You first heard that these articles belonged to concentration camp victims at your interrogation?

PUHL: Yes.

DR. SAUTER: And when did you learn what was contained in this deposit; when did you know that, to pick out one example, gold teeth were contained in it?

PUHL: Not at all. No details of this transaction were submitted to the Directorate by the strong-room or safe officials.

DR. SAUTER: So of this, too, you heard only after your arrest?

PUHL: Of the details, yes.

DR. SAUTER: Good. Now, you speak of an agreement which, according to the statement of Funk, Himmler, the Reichsführer of the SS, is said to have made with the Reich Minister of Finance. What do you know about this agreement?

PUHL: That is the agreement I have already mentioned. It was clear from the beginning that the value of the things deposited with us was to be credited to the Ministry of Finance.

DR. SAUTER: Not to the SS?

PUHL: No, not to the SS.

DR. SAUTER: Why not? The SS were the depositors, were they not?

PUHL: Yes, but they maintained that their actions were carried out in the name and on behalf of the Reich and its accounts.

DR. SAUTER: Witness, do you know whether these valuables, which in some way had been confiscated or stolen by the SS in the East, were placed as a matter of principle at the disposal of the Reich Ministry of Finance?

PUHL: I did not quite understand the question. Are you referring to these articles or to confiscated articles, valuables in general?

DR. SAUTER: To all valuables. I am speaking of gold, foreign currency, and so forth, all these valuables acquired by the SS in the East; were they all to be placed at the disposal of the Reich Ministry of Finance, and not of the Reichsbank?

PUHL: The equivalent value?

DR. SAUTER: Yes, the equivalent value.

PUHL: The equivalent value was credited to the Reich Ministry of Finance.

DR. SAUTER: In this connection, Witness, may I show you two accounts. I do not know whether you have seen them. They are two accounts of the chief cashier's office of your bank.

PUHL: Yes, to us.

DR. SAUTER: I should like you, then, to look at them, and to tell me whether you have seen them before and what you know about them?

PUHL: I saw these two copies—photostat copies—during my interrogations.

DR. SAUTER: But not earlier?

PUHL: No, not earlier. And from these photostat copies it is clear—we have just discussed it—that the equivalent value was to be credited to the Reich Chief Cashier's Office, as it says here; the Reich Chief Cashier's Office was a part of the Ministry of Finance.

DR. SAUTER: So apparently it is connected with this agreement, of which you heard, that finally all these things belonged to the Reich Ministry of Finance, to the Reich.

PUHL: Yes.

DR. SAUTER: Now I have one more question on this subject. And I would like to know whether perhaps there is a misunderstanding in this case too. You say in the affidavit that Funk told you this matter should be kept absolutely secret; that is the wording. You did not mention this point at all today, although we have the

affidavit in front of us. Will you say now whether this is true or whether it is a misunderstanding?

PUHL: That it should be kept secret? No.

DR. SAUTER: Yes.

PUHL: Of course, this matter was to be kept secret, but then everything that happens in a bank must be kept secret.

DR. SAUTER: Witness, this statement cannot, of course, satisfy us. Did you, during your interrogation of 3 May, say what is contained in this document, namely, that the matter was to be kept absolutely secret, or did you express yourself in different words?

PUHL: No, the wording of the affidavit is correct; the matter was to be kept absolutely secret.

DR. SAUTER: Why?

PUHL: Why? Because, plainly, such matters are usually kept secret and are not publicized; furthermore, these things came from the East. I repeat what I said before, that our attitude towards confiscated articles was always to avoid them.

DR. SAUTER: Did it strike you as unusual that the Defendant Funk spoke of keeping the matter secret?

PUHL: No.

DR. SAUTER: Or did it not strike you as unusual?

PUHL: Not as unusual.

DR. SAUTER: Not as unusual?

PUHL: No. It was merely decided in the conversation that since we were not willing to accept the confiscated articles of the foreign exchange control offices and the customs offices, we should, naturally, insist on secrecy in accepting these articles.

DR. SAUTER: Yes. But from your account of the matter, it appears that, on one hand, you considered the business to be perfectly legal, and you yourself say that it was perfectly legal; on the other hand, secrecy was for you, as an old banking expert, a matter of course. Now the question arises, why then was the subject of keeping the matter secret discussed at all?

PUHL: Herr Funk himself had been asked to keep the matter as secret as possible, and he passed on that request.

DR. SAUTER: When did Funk tell you that he had been asked to keep it secret?

PUHL: I do not remember that.

DR. SAUTER: Did you not ask him why it should be kept secret, absolutely secret, as you say? I do not know whether you still maintain "absolutely secret"?

PUHL: Yes, a special duty of observing secrecy was to be imposed on the officials.

DR. SAUTER: Well, what did you, as Vice President, as Managing Vice President, say to that?

PUHL: I did not say anything because, if that had been agreed upon, then this wish would have to be complied with.

DR. SAUTER: But you do not know whether it had been agreed upon?

PUHL: Well, I assume that it was agreed upon.

DR. SAUTER: You consider it possible?

PUHL: Yes.

DR. SAUTER: And—to repeat this—you did not at all see the articles which arrived?

PUHL: No, not at all.

DR. SAUTER: And probably you do not know how many there were?

PUHL: No, I do not know that either; and, as I said before, I never saw an account; that was not in comformity with our procedure, as individual transactions were not submitted to the members of the Directorate.

DR. SAUTER: I ask because recently, when this case was discussed, it was asserted that whole truckloads of such articles, whole truckloads had arrived. You are already laughing and you will laugh more when I tell you that 47 truckloads of gold were said to have arrived at your bank; and you knew nothing about them?

PUHL: I have never heard of that.

DR. SAUTER: You heard nothing about that? Witness, we will leave this point and turn to the second point in your affidavit of May, with which we can deal very briefly.

I think you knew Herr Pohl, SS Obergruppenführer Pohl, of whom you spoke just now, already in 1942?

PUHL: Yes, but none the less this was the first occasion on which Pohl came to my office.

DR. SAUTER: This is no reproach, I just wanted to establish a fact. You knew him as a result of this first credit transaction which took place at an earlier time.

PUHL: Yes, that may be.

DR. SAUTER: The Defendant Funk says, you see, that as far as he can remember this credit matter—and he did not attach any special significance to it at the time—it was negotiated about 1940,

some time before the other transaction. Can that be true? Approximately?

PUHL: I can neither deny nor confirm that; I no longer recall the date of the credit.

DR. SAUTER: Well, in your affidavit you state, with reference to this credit, that the Reichsbank had granted a credit of 10 or 12 millions to the SS, I believe to pay off a loan which the SS had taken up with another bank. And you say that this credit was used for financing production in factories directed by the SS, where workers from concentration camps were employed.

Witness, I am not primarily interested in this credit as such because it was, of course, part of your business as a bank; and the figure of, I think, 10 or 12 millions was also not unusual. But I am interested in how you knew that this money was to be used for SS factories in which workers from concentration camps were employed. How did you know that?

PUHL: The application for credit came from the Economic Department of the SS which I have mentioned before. This department was directing a number of factories in Germany, and needed money for that purpose. The Gold Discount Bank was prepared to give this credit, but only in the form of regular business credits. In other words, the debtor had to submit a balance sheet to us and at regular intervals had to report on his production, his general financial position, his plans for the immediate future, in short, all matters on which a debtor is bound to inform his creditor.

The board of directors of the Gold Discount Bank conducted these negotiations, in which the representatives of the Economic Department, who submitted the balance sheets, naturally discussed their production program, which was remarkable insofar as the wage figures affecting the balance were comparatively low. And so the natural question arose: Why is your wage account so low? The director of the Gold Discount Bank reported on this subject to the board meeting of the Gold Discount Bank.

DR. SAUTER: You always refer to the Gold Discount Bank. The Tribunal would be interested to know whether the Gold Discount Bank is identical with the Reichsbank, whether it was also under the jurisdiction of the Defendant Funk and your own, and what was its position?

PUHL: The Gold Discount Bank was an institute subsidiary to the Reichsbank; it was founded in the twenties for various purposes, not only for the promotion of exports, but also for the increase of production. The capital structure . . .

DR. SAUTER: No, we are not interested in that.

PUHL: Practically all the shares were in the hands of the Reichsbank. The Gold Discount Bank had a Board of Directors always headed by the President of the Reichsbank; it also had a deputy chairman who was the Second Vice President of the Reichsbank, and the Board of Directors itself included a number of members of the Directorate of the Reichsbank, and also the State Secretaries of the Ministry of Economics and of the Ministry of Finance.

THE PRESIDENT: It is not interesting to us to know who the exact directors of the Gold Discount Bank were.

DR. SAUTER: Witness, I wanted, in fact, to interrupt you earlier, and tell you that what you have just related is without significance for the Trial. To me and to the Tribunal it is only of interest to hear whether the Defendant Funk, as far as you definitely remember, had knowledge of these matters, of the purpose of this credit and whether he knew that in these factories people from the concentration camps were employed? Do you, or do you not know?

PUHL: I might assume that, but I cannot know it. At any rate, it was known that the credit was destined for these factories.

DR. SAUTER: Witness, I cannot be satisfied with that answer because the SS, as you have probably heard in the meantime, directed various undertakings in which no concentration camp inmates were employed. To my knowledge, for example, the porcelain factory at Allach did not apparently employ concentration camp inmates. Then for example, the entire personnel at the spas . . .

MR. DODD: I object to testimony by counsel. He is practically giving the answer to this witness before he asks the question.

DR. SAUTER: Do you know whether the SS had undertakings in which no concentration camp inmates were employed?

PUHL: I did not, of course, know every individual business run by the SS, nor could I know in each case whether prisoners were or were not employed.

DR. SAUTER: Was the Defendant Funk present at all during the meeting at which this credit was discussed?

PUHL: No, he was not present, the records of the proceedings were submitted; we always adopted that procedure.

DR. SAUTER: Then did the Defendant Funk talk at all with the people who had given information on the unusual figures of the wage account?

PUHL: No, that was done by the Board of Directors of the Gold Discount Bank.

DR. SAUTER: That was done by the board of the Gold Discount Bank, not by the Defendant Funk?

Then, Mr. President, I have no further questions for the witness.

MR. DODD: I have just a few questions to ask, Your Honor.

[Turning to the witness.] Whom have you talked to besides representatives of the Prosecution since you have arrived here in Nuremberg? Did you look at any paper?

PUHL: I do not know all their names, I believe a Mr. Kempner, Mr. Margolis . . .

MR. DODD: I am not asking you about the gentlemen of the Prosecution. I am asking you whom else you have talked to, if anybody, since you arrived here in Nuremberg. That doesn't require very much thought. Have you talked to anybody else since you arrived here or not?

PUHL: Only to the other prisoners in the corridor of our prison.

MR. DODD: To no one else?

PUHL: No one else.

MR. DODD: Now, are you absolutely sure about that?

PUHL: Yes, absolutely.

MR. DODD: Did you talk to Dr. Stuckart over in the witness wing, and about your testimony that you were going to give here this morning? Answer that question.

PUHL: Dr. Stuckart is one of the prisoners in the corridor of our witness wing.

MR. DODD: I didn't ask you that. I asked you if you didn't talk to him a day or two ago about your testimony in this case?

PUHL: No.

MR. DODD: Now, I think it is awfully important to you that I remind you that you are under oath here. I am going to ask you again if you didn't talk to Dr. Stuckart over in this witness wing about your testimony or about the facts concerning Funk in this case?

PUHL: No, I talked about all sorts of general matters.

MR. DODD: You didn't talk to four or five of those other people over there either about your testimony or about the facts here?

PUHL: No, absolutely not.

MR. DODD: All right. You know a man by the name of Thoms, T-h-o-m-s?

PUHL: T-h-o-m-s? He was an official of the Reichsbank who worked in the vaults of the Reichsbank in Berlin.

MR. DODD: You know the man, you do know him?

PUHL: Yes.

MR. DODD: Now, you talked to him about these deposits put in by the SS, didn't you, Herr Puhl?

PUHL: To Herr Thoms, no.

MR. DODD: You didn't talk to him?

PUHL: No, I have not seen Herr Thoms at all in Nuremberg, and only from a distance in Frankfurt.

MR. DODD: I am not referring to Nuremberg now. We will get away from that for a minute. I mean during the time that these deposits were being made in the Reichsbank. Did you not talk to Herr Thoms about the deposits?

PUHL: Yes, as has been stated here in the affidavit.

MR. DODD: Well, never mind the affidavit for a few minutes. I have a few questions I want to ask you. I am particularly interested in this matter of secrecy. What did you tell Thoms about the requirement of secrecy with respect to these SS deposits? Did you tell Thoms about the requirement of secrecy with respect to these SS deposits?

PUHL: I must add that I really talked with Herr Tonetti, because he was the person responsible; and Herr Thoms was only called in. I told both gentlemen that it was desired the matter be kept secret.

MR. DODD: Did you say that it had to be kept a secret and that they must not discuss it with anybody else; that it was highly secret, a special transaction, and if anybody asked him about it, he was to say that he was forbidden to speak about it? Did you tell that to Herr Thoms in the Reichsbank?

PUHL: Yes, that was the sense of what I said.

MR. DODD: Well, that is what I am asking you. Why did you tell Thoms that he was not to speak about it; that it was absolutely forbidden; that it was highly secret, if it was just the ordinary confidence reposed in bank officials attached to a business relationship?

PUHL: Because the Reichsbank President Funk personally conveyed this wish to me.

MR. DODD: Well, now, I think perhaps there is some confusion in our minds. You see, I clearly understood, and I expect others as well as the Tribunal may have in the courtroom this morning, that you were telling counsel for Funk that the secrecy attached to these transactions was not extraordinary but just the ordinary secrecy or confidence that banking people attach to their relationship with customers. Now, of course, that wasn't so, was it?

PUHL: The position, as I explained it earlier, is this: These confiscated valuables were usually rejected by us when brought to the bank; and if an exception was now being made, then it was a matter

of course that a greater amount of secrecy, a special obligation to maintain secrecy, should be observed.

MR. DODD: I wish you would answer this question very directly. Wasn't there a special reason for special secrecy with respect to these deposits by the SS? You can answer that Yes or No.

PUHL: No, I did not perceive a special reason.

MR. DODD: Then why were you telling Thoms that it was highly secret and he was to tell anybody who asked him about it that he was forbidden to speak about it? You didn't ordinarily instruct your people to that effect, did you?

PUHL: Because I myself had received this instruction.

MR. DODD: That may be so, but that was a special secrecy, wasn't it? That wasn't your ordinary and customary way of doing business?

PUHL: The confiscated articles were usually rejected when they reached us; if the exception which we made in this case became known, then it would immediately have provided an example for others; and that we wanted to avoid under all circumstances.

MR. DODD: You didn't want to discuss this matter on the telephone with Pohl of the SS, did you? You asked him to come to your office rather than talk about it on the telephone?

PUHL: Yes.

MR. DODD: Why was that, if it was just an ordinary business transaction?

PUHL: Because one never knew to what extent the telephone was being tapped, and thus the transaction might have become known to others.

MR. DODD: Well, you didn't talk to anybody much on the telephone; is that right? You were a man that never used the telephone out of the Reichsbank? Now, I think you realize fully well that there was a special reason in this case for not wanting to talk on the telephone and I think you should tell the Tribunal what it was.

PUHL: Yes; the reason was, as I have said repeatedly, that from the beginning special secrecy was desired, this desire was respected and adhered to everywhere, also as to this telephone call.

MR. DODD: And you are still insisting that this transaction was not a special secret transaction that you told Dr. Kempner was a "Schweinerei." Do you know what that word means?

PUHL: Yes.

MR. DODD: What does it mean? It means it smelled bad, doesn't it?

PUHL: That we should not have done it.

MR. DODD: Now, you called up Thoms on more than one occasion to ask him how the deposits from the SS were coming in, didn't you?

PUHL: No, I saw Thoms relatively seldom, often not for months, as he could hardly come to my office.

MR. DODD: I didn't ask you if you saw him often. I asked you if you didn't call him on the telephone and ask him how the deposits were coming along?

PUHL: No, I took no further interest in the conduct of this particular transaction. Moreover, the requesting of a report from the cashier would have been the proper procedure.

MR. DODD: Did you tell him to get in touch with Brigadeführer Frank or Gruppenführer or Obergruppenführer Wolff of the SS? Did you tell that to Thoms?

PUHL: Yes, I repeat what I said earlier; when Pohl was in my office he told me that he would appoint two people to negotiate the transaction with the Reichsbank, and they were the two people just mentioned; I passed on their names to the cashier's office.

MR. DODD: What was the name under which these deposits were known in the Reichsbank?

PUHL: I heard of the name under which these deposits were known in the Reichsbank for the first time in Frankfurt, when I saw it in the files.

MR. DODD: Don't you know the name Melmer, M-e-l-m-e-r?

PUHL: Yes, from my time in Frankfurt.

MR. DODD: Didn't you on one occasion call Herr Thoms on the telephone and ask him how the "Melmer" deposits were coming along?

PUHL: I am afraid I didn't quite understand.

MR. DODD: Well, I say, didn't you on one occasion at least call Herr Thoms on the telephone in the Reichsbank and ask him how the "Melmer" deposits were coming along?

PUHL: No, I could not have put that question because I did not know the word "Melmer."

MR. DODD: You don't know that Melmer was the name of an SS man? You don't know that?

PUHL: No, I did not know that.

MR. DODD: I want you to look at an affidavit by Mr. Thoms, executed the 8th day of May 1946. You have seen this before, by the way; haven't you, you saw it yesterday? Answer that question, will

you please, Mr. Witness. You saw this affidavit yesterday, the one I just sent up to you? You saw that yesterday, didn't you?

PUHL: Yes.

MR. DODD: You will observe in Paragraph 5 that Thoms, who executed this affidavit, said that he went to see you and that you told him that the Reichsbank was going to act as custodian for the SS and the receipt and disposition of deposits and that the SS would deliver the property, namely gold, silver and foreign currency; and you also explained that the SS intended to deliver numerous other kinds of property such as jewelry, and "we must find a way to dispose of it," and that he suggested to you, Mr. Puhl, that:

> "We transmit the items to the Reichshauptkasse, as we did in the case of Wehrmacht booty, or that the items could be given by the Reichsführer SS directly to the pawnshop for disposition, so that the Reichsbank had no more to do with it than it did in the case of confiscated Jewish property. Puhl told me that it was out of the question and that it was necessary that we arrange a procedure for handling this unusual property in order to hold the whole business secret."

Then he goes on to say:

> "This conversation with Puhl occurred just a short time, approximately two weeks, before the first delivery, which occurred on 26 August 1942. The conversation was in the office of Herr Puhl; nobody else was present. I don't remember if Herr Frommknecht was present during the whole time; and Puhl said it was very important not to discuss this with anybody, that it was to be highly secret, that it was a special transaction, and if anybody asked about it that I should say I was forbidden to speak about it."

And on the next page you find, in Paragraph 8, Herr Thoms says:

> "I was told by Herr Puhl that if I had any questions on this matter I was to get in touch with Brigadeführer Frank or with Gruppenführer or Obergruppenführer Wolff of the SS. I remember getting the telephone number of this office, and I think I recall it was furnished me by Herr Puhl. I called Brigadeführer Frank about this, and he stated that the deliveries would be made by truck and would be in charge of an SS man by the name of Melmer. The question was discussed whether Melmer should appear in uniform or civilian clothes, and Frank decided it was better that Melmer appear out of uniform."

And so on.

Then, moving on down, he says, in Paragraph 10:

"When the first delivery was made, however, although Melmer appeared in civilian clothes, one or two SS men in uniform were on guard; and after one or two deliveries most of the people in the Hauptkasse and almost everybody in my office knew all about the SS deliveries."

Then moving on again, Paragraph 12:

"Included in the first statement sent by the Reichsbank, and signed by me, to Melmer was a question concerning the name of the account to which the proceeds should be credited. In answer to that I was orally advised by Melmer that the proceeds should be credited to the account of 'Max Heiliger.' I confirmed this on the telephone with the Ministry of Finance; and in my second statement to Melmer, dated 16 November 1942, I confirmed the oral conversation."

Now, the next paragraph is 13:

"After a few months, Puhl called me and asked me how the Melmer deliveries were going along and suggested that perhaps they would soon be over. I told Puhl that the way the deliveries were coming in it looked as though they were growing."

And then I call your attention to the next paragraph:

"One of the first hints of the sources of these items occurred when it was noticed that a packet of bills was stamped with a rubber stamp, 'Lublin.' This occurred some time early in 1943. Another hint came when some items bore the stamp, 'Auschwitz.' We all knew that these places were the sites of concentration camps. It was the tenth delivery, in November 1942, that dental gold appeared. The quantity of the dental gold became unusually great."

Now, there is another paragraph, but I particularly want to call your attention to the fact that Thoms says you called him and asked him how the Melmer deliveries were going, and also to the fact that you, as he states in here, impressed upon him the need for absolute secrecy.

And now, I want to ask you, after having seen that affidavit again—and you will recall that you told our people yesterday that that affidavit, insofar as your knowledge was concerned, was absolutely true—now I am going to ask you if it isn't a fact that there was a very special reason for keeping this transaction secret.

PUHL: In reading this statement, it is obvious that the desire for secrecy came from the SS; and this tallies exactly with what I said before, namely, that the SS emphasized that the desire for secrecy originated with them. And as we heard, they went so far as to invent an account—"Max Heiliger"—which was obviously, as is also

clear from the statement, an account for the Reich Ministry of Finance. In other words, this tallies with what I have been saying, namely, that the obligation to keep the matter secret, this special obligation, was desired by the SS, and was carried out; and it applied even to the transfer of the equivalent value. As regards the second point, that I am supposed to have talked to Thoms, I already stated yesterday that I do not remember such a conversation among the very great number of conversations which I had at the bank daily. Nor can I imagine that I went to see him. That would have been a very unusual procedure.

I do not recall the expression "Melmer deliveries" in that connection; but I suggest that it is used in this statement for simplicity's sake, just to refer briefly to the subject under discussion.

MR. DODD: It isn't too important, but of course he says you called him on the telephone, that you didn't go to see him. However, I offer this as Exhibit USA-852.

THE PRESIDENT: This statement we have before us doesn't appear to be sworn.

MR. DODD: Well, the witness is here in Nuremberg. I will withdraw it and have it sworn to and submit it at a later date. I wasn't aware that it wasn't sworn to. He is here and available. I had him brought here in case any question was raised about him.

[Turning to the witness.] Now, the Defendant Göring knew something about these deposits, too, didn't he? Now that we are talking this thing all out, what about that?

PUHL: I was not aware that Herr Göring knew anything about these things.

MR. DODD: I show you a document that was found in the files of the Reich Treasury, the Reichsbank, rather. It is Number 3947-PS, and it is a new document. You haven't seen this, by the way.

Now, this is a memorandum in the files, dated 31 March 1944, and it says, its subject is:

"Utilization of jewels, and so forth, which have been acquired by official agencies in favor of the Reich.

"According to an oral confidential agreement between the Vice President, Mr. Puhl, and the chief of one of Berlin's public offices, the Reichsbank has taken over the converting of domestic and foreign moneys, gold and silver coins, precious metals, securities, jewels, watches, diamonds, and other valuable articles. These deposits will be processed under the code name 'Melmer.'

"The large amounts of jewelry, and so forth, acquired hereby have previously been turned over—after checking the number

of pieces and, insofar as they had not been melted down, the approximate weights given—to the Municipal Pawn Shop, Division III, Main Office, Berlin N 4, Elsässer Strasse 74, for the best possible realization of value."

I am not going to read all of it. It goes on with more material about the pawn shop, but I want to call your attention to the paragraph beginning:

"The Reich Marshal of the Greater German Reich, the Delegate for the Four Year Plan, informs the Reichsbank in his letter of 19 March 1944, copy of which is enclosed, that the considerable amounts of gold and silver objects, jewels, and so forth at the Main Office of Trustees for the East (Haupttreuhandstelle Ost) are to be delivered to the Reichsbank according to an order issued by Reich Ministers Funk and Graf Schwerin von Krosigk. The converting of these objects must be accomplished in the same way as the 'Melmer' deliveries.

"At the same time the Reich Marshal informs us on the converting of objects of the same kind which have been acquired in the occupied western territories. We do not know to which office these objects have been delivered and how they are liquidated."

Then there is more about an inquiry and more about this whole business, the pawn shops, and so on. But, first of all, I want to ask you: In the first paragraph it says "according to a confidential oral agreement between you and the chief of one of Berlin's public offices"—who was this chief of the Berlin public office who had a confidential agreement about this business with you?

PUHL: That was Herr Pohl. This is the agreement of which we spoke this morning.

MR. DODD: That was Herr Pohl of the SS, wasn't it?

PUHL: Yes.

MR. DODD: And that was this whole transaction; this whole SS transaction that this memorandum is about, that much of it is about?

PUHL: This is a report from our cashier, and in line with the obligation of secrecy the words "SS Economic Department" have been avoided and the more general term "the head of a Berlin public office" is used.

MR. DODD: And later on in the paragraph it refers to the incoming objects to be processed under the code name "Melmer," M-e-l-m-e-r. That is the name I asked you a few minutes ago if you recognized, isn't it?

PUHL: I didn't understand the question.

MR. DODD: Well, the last sentence in this paragraph says: "All incoming deposits will be processed under the code name 'Melmer.' " M-e-l-m-e-r. That is the name I asked you about a few minutes ago, and you said you didn't know it.

PUHL: Yes, and this statement also shows that I couldn't have known it, because only now, in this statement, is it disclosed that the name "Melmer" was used.

MR. DODD: I think if you will read it you will see that it shows just the opposite. It says, according to the oral confidential agreement between you and Pohl of the SS the Reichsbank took over the selling, and so on, of gold, silver coins, and so forth. "All incoming deposits will be processed under the code name 'Melmer.' "

You are not telling this Tribunal that a transaction like this was going on in your bank over which you were Vice President, under a code name, and you didn't know it, and you were the man who was dealing directly with the SS man. Are you seriously saying that to this Court?

PUHL: Yes. The word "Melmer" was never used in my presence. But our treasury directors could use code words for the accounts of clients who preferred not to give their own names and the names of their institutions; and the treasury made use of a code word in this case too.

MR. DODD: You will observe that this is the second time this morning that we have run across the name Melmer. Herr Thoms says you used that term in talking to him, and now we find it in one of your own bank memorandums, which is a captured document. Are you still saying that you don't know the term?

PUHL: This memorandum wasn't made for me, but for the responsible treasury official. And specifically in order to acquaint him with the arrangements made by the treasury, the memorandum states under what code name this transaction will be carried out.

MR. DODD: Herr Puhl, look up at me a minute, will you. Didn't you tell Lieutenant Meltzer, Lieutenant Margolis, and Dr. Kempner, when they were all together with you, that all of this business with the SS was common gossip in the Reichsbank? These gentlemen who are sitting right here, two of them at the United States table and one up here. You know them. Now I want you to think a minute before you answer that question.

PUHL: We talked of the fact that the secret was not kept, and in the long run it is not possible to keep a permanent secret in a bank; but that has nothing to do with it. What we were speaking of just now were the technical details, how this sort of transaction was carried out; those details did not become general knowledge. What

naturally could not be avoided was the transaction as such becoming known.

MR. DODD: Now, in case you don't understand me, we are not talking about that. I think you cannot help but remember because this is only a day or so ago, and in this building, you had a conversation with these gentlemen, didn't you? And I am now asking you if it isn't a fact that you told them that this whole SS transaction with the bank was common gossip in the bank.

PUHL: There was a general whisper in the bank about this transaction; but details were, of course, not known.

MR. DODD: Are you worried about your part in this? I think that is a fair question in view of your affidavit in your testimony. Are you concerned about what you had to do with this business? Are you?

PUHL: No. I myself, once the matter had been set in motion, had nothing further to do with it. And in the statement, which you have submitted, Herr Thoms himself admits that he did not see me at all for months. The Directorate never discussed this matter in its meetings and was never approached for a decision.

MR. DODD: You know, when the Defendant Funk was on the stand, he said that you were the one who first told him about the SS business. Is that your version of it?

PUHL: No. My recollection is that the first conversation took place in the office of President Funk; and he told me, for reasons which I stated earlier, that we wanted to oblige the SS by taking over these "deposits"—that was the word used.

MR. DODD: You put it more strongly than that the other day when you thought about it, when you said "Can you imagine Himmler talking to me instead of Funk"? Do you remember saying that to these gentlemen?

PUHL: I'm sorry I didn't understand the last question.

MR. DODD: Well, it is not too important. I say, don't you remember telling these gentlemen, Lieutenant Meltzer, Lieutenant Margolis, don't you remember making this statement that Himmler wouldn't talk to you as Vice President of the Bank, but that he would talk to Funk. You were quite upset when we told you that Funk had said that you were the man who originated this.

PUHL: Yes.

MR. DODD: You got terribly upset about it. Don't you remember that?

PUHL: Yes.

MR. DODD: Finally, this question: Are you serious in saying that you didn't know about these deposits until you were

interrogated in Frankfurt, or what the nature of them was? In view of the Thoms affidavit, this exhibit that I have just shown you, and the whole examination this morning, do you want your testimony to close with the statement that you actually didn't know what was in these deposits at any time?

PUHL: I saw the statement put before me today, the statement by the treasury official put before me today, for the first time in Frankfurt, and never before. Moreover, I did not and could not, as Vice President, concern myself with the details of this transaction, for I was responsible for general economic and currency policy and for credits and such things. Besides, we had a whole staff of highly qualified officials in our treasury office; and if it had been necessary, they would have had to make a report to the Directorate of the Reichsbank.

MR. DODD: Of course you don't deny that you knew there were jewels and silver and all these other things in the deposits, do you?

PUHL: The German term "Schmucksachen," jewelry, was always used.

MR. DODD: All right! Let's see what you did know was in the deposits? You knew there was jewelry, some jewelry, there. You knew there was some currency. You knew there were coins. You knew there were other articles. Now, the only thing you didn't know was the dental gold; is that so?

PUHL: That is true, certainly. It was known from the outset, and Herr Pohl had told me, that the greater part of these deposits contained mainly gold, foreign currency, silver coins, and, he added, also "some jewelry."

MR. DODD: Well, now, the question I think you can answer simply is: Everything that is mentioned in your affidavit except the dental gold you did know was on deposits from the SS. Don't you understand that question? I don't think it is complicated. You don't need to read anything, Herr Puhl. If you will just look up here, I am asking you if you know about everything that is mentioned in your affidavit except the dental gold.

PUHL: Well, I knew about jewelry, but I did not know in detail what kind of jewelry it was.

MR. DODD: I am not asking you about details. I am simply asking if you did know it was there. You knew there was currency there, and you knew there were other articles there. Those are about the only things that are mentioned excepting the dental gold, and that is the one thing you seem now not to have known.

PUHL: Yes, I knew, in general, that the deposits contained gold and foreign currency, and I repeat that the jewelry . . .

MR. DODD: And jewelry?

PUHL: I knew that there was jewelry.

MR. DODD: So the only thing you say now you didn't know was the dental gold. That is all I am asking you. Why don't you answer that? It doesn't take very long. Isn't that so? The only thing you didn't know was the dental gold.

PUHL: No.

MR. DODD: Well, what else is mentioned you didn't know about?

PUHL: Spectacle frames, for example, were also mentioned.

MR. DODD: You didn't know about those either? All right, I will include those, spectacle frames and dental gold. These are the two things you didn't know about?

PUHL: Information I received contained only the general term "jewelry."

MR. DODD: They are the two matters that you had the most to worry about, aren't they, eye glass frames and dental gold?

I have no further questions, Mr. President.

THE PRESIDENT: One moment, please. Don't take that man away.

[Turning to the witness.] Have you got a copy of your affidavit before you?

PUHL: Of 3 May, yes.

THE PRESIDENT: Have you only got one copy of it?

PUHL: I must just look—Yes, I have another copy.

THE PRESIDENT: Let me have it, please, will you?

This document will be identified, and form part of the record. It had better be given whatever the appropriate number is.

MR. DODD: I believe, Mr. President, that it is already in evidence.

THE PRESIDENT: Not this particular document, it is not. This is the particular document he had before him; it has got a number of manuscript notes on it, and is in the English language.

Mr. Dodd, you had better look at it.

MR. DODD: All right, Sir.

I believe it would become Exhibit USA-851; I think that is the next number in sequence.

THE PRESIDENT: Exhibit USA-851; very well.

MR. DODD: I might say I think there is one question that might be helpful to the Tribunal with respect to this affidavit.

Herr Puhl, you personally typed up a large part of this affidavit yourself, did you not, or wrote it up, or dictated it?

PUHL: A complete draft was put before me, and I altered it accordingly.

THE PRESIDENT: One moment; and then signed it after you had altered it?

[The witness nodded assent.]

THE PRESIDENT: Do not nod; please answer. You said, "A complete draft was put before me, and I altered it." And I ask you, did you then sign it?

PUHL: Yes.

MR. DODD: And did you also initial those places that you altered on the original? Did you not put your initials in each place that you wanted to make a change?

Isn't that so?

PUHL: No; we copied it again, it was completely rewritten . . .

MR. DODD: I know you copied it anew. Did you not mark the places that you wanted changed and say how you wanted it changed? You did, did you not?

PUHL: Yes; but that is of minor importance; for instance, the word for "Reichsbank" was changed to "Gold Discount Bank," and there were similar editorial changes.

MR. DODD: Well, I thought it might be helpful to the Tribunal to know that it was rewritten and initialed.

THE PRESIDENT: Very well.

THE TRIBUNAL (Mr. Francis Biddle, Member for the United States): Mr. Witness, I want to ask you a few questions. The first you heard about these transactions was from the Defendant Funk, was it not?

PUHL: Yes.

THE TRIBUNAL (Mr. Biddle): Did Funk tell you who had told him about them in the SS?

PUHL: Himmler.

THE TRIBUNAL (Mr. Biddle): Himmler had spoken to Funk about this? Who else, besides Himmler and Funk, was present when Funk talked to Himmler about this?

PUHL: That I do not know.

THE TRIBUNAL (Mr. Biddle): You do not know if Pohl was there also?

PUHL: That I cannot say but I can say that from the very beginning the name of the Minister of Finance was mentioned in this connection. But whether he was personally present, I do not know.

THE TRIBUNAL (Mr. Biddle): Did Funk say to you what Himmler said to him?

PUHL: He asked that the facilities of the Reichsbank be placed at the disposal of the SS for this purpose.

THE TRIBUNAL (Mr. Biddle): Then shortly after that, you took the matter up at the meeting of the Board of Directors?

PUHL: Yes.

THE TRIBUNAL (Mr. Biddle): Was Funk at that meeting?

PUHL: No, he was not.

THE TRIBUNAL (Mr. Biddle): What did you say to the Board of Directors?

PUHL: I reported to the Directorate briefly on the transaction.

THE TRIBUNAL (Mr. Biddle): What did you say to them?

PUHL: In a few words I described my conversation with Herr Funk and my conversation with Herr Pohl, and I confirmed the fact that the Reichsbank would take the valuables of the SS into their vaults.

THE TRIBUNAL (Mr. Biddle): And then did the Board of Directors approve the action?

PUHL: Yes; there was no objection.

THE TRIBUNAL (Mr. Biddle): Now, the defendant Funk said to you that these objects had come "from the East," did he not?

PUHL: Yes.

THE TRIBUNAL (Mr. Biddle): What did you understand that he meant by that phrase, "from the East"?

PUHL: Principally Poland, occupied Poland. But some Russian territories might also have been included in that phrase.

THE TRIBUNAL (Mr. Biddle): You knew that this was confiscated property, I presume?

PUHL: Yes.

THE TRIBUNAL (Mr. Biddle): Now, you told Pohl that the Bank would perform certain services in handling the property, did you not?

PUHL: Pohl asked me to place the good services of the Bank at the disposal of his men. That I agreed to do.

THE TRIBUNAL (Mr. Biddle): And did those services include arranging the property, putting it in sacks and describing it?

PUHL: That was not talked about.

THE TRIBUNAL (Mr. Biddle): I did not ask you whether it was talked about. I asked you whether the services included arranging the property and putting it in different kinds of containers and sacks. Is that what you did?

PUHL: Yes, that was a matter for the decision of the treasury directors; if they considered it necessary, they could do it.

THE TRIBUNAL (Mr. Biddle): Was that done?

PUHL: That I cannot know. It is a treasury matter.

DR. SAUTER: Mr. President, may I put two more questions, two very brief questions?

THE PRESIDENT: Very well, Dr. Sauter.

DR. SAUTER: The one question, Witness, is this: You have been repeatedly asked here who has talked to you during the past few days.

PUHL: Here in Nuremberg?

DR. SAUTER: Yes, in Nuremberg. You know that several members of the Prosecution have discussed this with you during the last few days. I should like to establish here: Have I talked to you?

PUHL: No, I am seeing you for the first time in my life to-day.

DR. SAUTER: I just wanted to establish this, for the sake of correctness. And the second question is this—actually you have already confirmed this, but after the charge of the Prosecution I should like to hear it from you again—in all these negotiations or in the documents which have been submitted and which you have of course read, was mention ever made of the fact that these things came from concentration camps?

PUHL: The word "concentration camp" was used neither during the conversation with Herr Funk nor during the conversation with Herr Pohl.

DR. SAUTER: And Herr Funk did not give you an indication of that sort, either.

PUHL: No.

DR. SAUTER: Then I have no further questions, Mr. President; thank you.

THE PRESIDENT: The witness can retire, and the Tribunal will adjourn.

[A recess was taken.]

THE PRESIDENT: Mr. Dodd, you did offer 3947-PS as an exhibit, did you not?

MR. DODD: Yes, Sir, I did, as Exhibit USA-850, I believe it was.

THE PRESIDENT: 850, was it? Yes, and then that copy of the Puhl affidavit was USA-851?

MR. DODD: Yes, Sir, that is right. I did not offer the other affidavit because we discovered it wasn't sworn to as yet. I propose to do so and with your permission I delay the date. I have that witness here. This thing can't go on interminably, and I don't want to drag it on; but I would like to offer it as an affidavit when I can have him swear to it, and if there is going to be any demand for him I might respectfully suggest that Dr. Sauter states it now. He is not a prisoner, Mr. President, the witness Thoms. He is a free man in this country.

THE PRESIDENT: You are suggesting that he should be called now?

MR. DODD: If he is going to be called, I would suggest that it be done soon.

THE PRESIDENT: If he wants to cross-examine him he should be called now.

MR. DODD: I should be glad to have him now.

DR. SEIDL: Mr. President, I am representing Attorney Dr. Kauffmann for the Defendant Göring. The Defendant Göring asked me to put two questions to the witness Puhl during his re-examination. The questions would probably be connected with the document which the Prosecution brought up in cross-examination of the witness Puhl, Document 3947-PS, of which the Prosecution read Page 2, Paragraph 3, beginning, "The Reich Marshal of the Greater German Reich, Delegate for the Four Year Plan . . ."

THE PRESIDENT: One moment, Dr. Seidl. If you want to put questions to the witness Puhl on behalf of the Defendant Göring you can do so and Puhl will be recalled for that purpose.

DR. SEIDL: Mr. President, the difficulty consists of something else. The Defendant Göring says, and I think rightly, that he can put his questions to the witness with reason only if he has an opportunity of seeing the document to which the Prosecution referred. Therefore, during the cross-examination I wanted to have the guard pass on Document 3947-PS to Defendant Göring. That was refused, however, on the grounds that, by an order of the Commandant of the Prison, during the proceedings documents can no longer be handed to those defendants whose cases have already been concluded.

THE PRESIDENT: Although the document was read over the earphones the Defendant Göring and yourself shall certainly see the document, but the witness must be called during this sitting. You may see the document and the Defendant Göring may see the document, but the witness must be recalled for any questions at once.

DR. SEIDL: Mr. President, only excerpts were read from the document. In my opinion the Defendant Göring is right in saying: If I am to ask a sensible question I must know the whole document. I think there are only two possibilities; either the Prosecution must refrain from presenting new material during cross-examination of the defendants whose cases are said to have already been concluded, or the defendant must be given the opportunity of seeing this evidence . . .

THE PRESIDENT: Don't go too fast!

DR. SEIDL: . . . or the defendant must be given the opportunity of seeing the evidence newly introduced, and when only excerpts of a document are read, he must have access to the whole document.

THE PRESIDENT: The document is only just over one page and there is only one paragraph in it which refers to Göring. And that paragraph has already been read. When I say one page, it is just one page of this English copy. I think you have a German translation before you.

DR. SEIDL: I have 3½ pages.

THE PRESIDENT: There is only one paragraph which relates to Göring.

DR. SEIDL: Mr. President, it is only a question of whether in the main proceedings I may give this photostat copy to the Defendant Göring or not. If this is possible, and . . .

THE PRESIDENT: You are going too fast!

DR. SEIDL: . . . and I see no reason why it should not be possible, then I will shortly be able to ask the witness Puhl any question that may be necessary; but I think the defendant is right in saying that he would like to see the entire contents of a document from which only excerpts have been read.

MR. DODD: Mr. President, I might be a little bit helpful. I would like to point out that Dr. Seidl had the document for 10 minutes anyway during the recess; and also I would like to point out that we did not preclude him, as members of the Prosecution, from having it. It is a security measure altogether.

THE PRESIDENT: Perhaps it will satisfy you, Dr. Seidl, if we order that the witness Puhl be recalled at 2 o'clock for Dr. Seidl to put any questions to him that you wish. And of course he would

have the document. He has got the document now, and of course Göring will have the document, too.

DR. SEIDL: That is the difficulty, Mr. President. I have the document, but on account of the existing instructions I cannot hand it to the Defendant Göring.

THE PRESIDENT: You can give the document to Göring now.

DR. SEIDL: I am not allowed to do that.

THE PRESIDENT: I am telling you to do it, and they will let you do it.

Dr. Sauter, do you wish to cross-examine the man who has made a statement? Do you wish to cross-examine Thoms?

DR. SAUTER: Yes, if I may.

THE PRESIDENT: You do?

DR. SAUTER: Yes. Mr. President, may I comment on what Dr. Seidl has just said? It isn't only a question concerning this one document which Dr. Seidl just wanted to give to the Defendant Göring, but it is a general question of whether during the session a defense counsel is authorized to hand to a defendant documents which have been submitted. Hitherto this has been allowed, but now the security ruling is that defendants whose cases have been completed for the present may no longer be given any documents in the courtroom by their defense counsel. Defense Counsel feel that this is an unfair ruling, since, as the case of Göring shows, it can very easily happen that a defendant is in some way involved in a later case. And the request which we now direct to you and to the Court is that Defense Counsel should again be permitted to give the defendants documents here during the session, even if the case of the defendant in question has already been concluded. That is what Dr. Seidl wanted to ask you.

Mr. President, may I say something else?

THE PRESIDENT: Yes, Dr. Sauter? You wanted to say something more to me?

DR. SAUTER: May I also point out the following: In the interrogation room down in the prison we have so far not been allowed to hand any documents to the prisoners with whom we were speaking. Thus, if I want to discuss a document with my client, I have to read the whole of it to him. And when 10, 12, or 15 defense counsel are down there in the evening, it is almost . . .

THE PRESIDENT: Dr. Sauter, the Tribunal is of the opinion that any document which is handed to the defendants' counsel may be handed to the defendants themselves by the counsel and that it

does not make any difference that a particular defendant's case has been closed with reference to that rule.

DR. SAUTER: We are very grateful to you, Mr. President, and we hope that your ruling will not in practice encounter any difficulties.

THE PRESIDENT: Well then now, you want to cross-examine Thoms?

DR. SAUTER: Yes.

THE PRESIDENT: Is Thoms here? Can he be brought here at once?

MR. DODD: He is on his way—he is probably right outside the door.

THE PRESIDENT: Well, would the Marshal see if he is available.

MR. DODD: I have not had time, Mr. President, to have the affidavit sworn to because I have not seen the man.

THE PRESIDENT: No, but as far as his cross-examination is concerned, he can be put under oath here.

MARSHAL: No, Sir, he is not here yet.

MR. DODD: He is on his way.

THE PRESIDENT: He is not available.

MR. DODD: He is on his way. He was in Lieutenant Meltzer's office a minute ago and he went out to get him.

THE PRESIDENT: Well, he can be called then at 2 o'clock after the other witness.

Now, Dr. Siemers, would you be ready?

DR. SIEMERS: Your Honors, may I say, first of all, how I intend to proceed in the presentation of my case?

In accordance with the suggestion of the Court, I should like to call Raeder as a witness in connection with all the documents which the Prosecution has submitted against him. I have given all these documents to Raeder so that he will have them before him on the witness stand, and no time will be lost by handing him each one individually. The British Delegation has kindly compiled the documents which were not included in the Raeder Document Book, in a new Document Book 10a. I assume that this document book is in the possession of the Tribunal.

Thus, to facilitate matters, I shall give the page number of the English Document Book 10a or the English Document Book 10 in the case of each document.

At the same time, if the Tribunal agrees, I intend already now to submit from my own document books those documents which in each case are connected with the matter under discussion. Thank you.

May I then ask that Admiral Raeder be called to the witness stand.

[The Defendant Raeder took the stand.]

THE PRESIDENT: Will you state your full name.

ERICH RAEDER (Defendant): Erich Raeder.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

DR. SIEMERS: Admiral Raeder, may I ask you first to tell the Tribunal briefly about your past and your professional career?

RAEDER: I was born in 1876 in Wandsbek near Hamburg. I joined the Navy in 1894 and became an officer in 1897. Then normal promotion: two years at the naval academy; in each year, three months leave to study languages; in Russia during the Russo-Japanese War. 1906 to 1908 in the Reich Navy Office, in Von Tirpitz' Intelligence Division, responsible for the foreign press and the publications *Marine Rundschau* and *Nautikus.*

1910 to 1912, Navigation Officer on the Imperial Yacht *Hohenzollern.* 1912 to the beginning of 1918, First Chief Naval Staff Officer and Chief of Staff to Admiral Hipper who was in command of the battle cruisers.

After the first World War in the Admiralty, as Chief of the Central Division with Admiral Von Trotha. Then two years of writing at the naval archives: history of naval war. From 1922 to 1924, with the rank of Rear Admiral, Inspector of Training and Education in the Navy. 1925 to 1928, as Vice Admiral, chief of the Baltic naval station at Kiel.

On 1 October 1928 Reich President Von Hindenburg named me Chief of the Navy Command in Berlin, at the suggestion of Reich Minister of Defense, Gröner.

In 1935 I became Commander-in-Chief of the Navy, and on 1 April 1939 Grossadmiral.

On 30 January 1943 resigned as Commander-in-Chief of the Navy; I received the title of Admiral Inspector of the Navy, but remained without any official duties.

DR. SIEMERS: I should like to come back to one point. You said that in 1935 you became Commander-in-Chief of the Navy. This was only, if I am right, a new name?

RAEDER: It was only a new name.

DR. SIEMERS: So you were head of the Navy from 1928 to 1943?

RAEDER: Yes.

DR. SIEMERS: After the Versailles Treaty Germany had an army of only 100,000 men, and a navy of 15,000 men, with officers. In relation to the size of the Reich, the Wehrmacht was thus extremely small.

Was Germany in the twenties in a position to defend herself with this small Wehrmacht against possible attacks by neighboring states, and with what dangers did Germany have to reckon in the twenties?

RAEDER: In my opinion, Germany was not at all in a position to defend herself effectively against attacks, even of the smallest states, since she had no modern weapons; the surrounding states, Poland in particular, were equipped with the most modern weapons, while even the modern fortifications had been taken away from Germany. The danger which Germany constantly faced in the twenties was . . .

DR. SIEMERS: One moment. Now continue, please.

RAEDER: The danger which Germany constantly faced in the twenties was a Polish attack on East Prussia with the object of severing this territory, already cut off from the rest of Germany by the Corridor, and occupying it. The danger was especially clear to Germany, because at that time Vilna was occupied by the Poles, in the midst of peace with Lithuania; and Lithuania took away the Memel area. In the south, Fiume was also taken away, without objection being raised by the League of Nations or anyone else. It was, however, quite clear to the German Government of those days that one thing which could not be allowed to happen to Germany during that time of her weakness was the occupation of East Prussia and its separation from the Reich. Our efforts were therefore aimed at preparing ourselves to oppose a Polish invasion of East Prussia with all possible means.

DR. SIEMERS: You said that it was feared that such an invasion might take place. Did not several border incidents actually occur in the twenties?

RAEDER: Yes, indeed.

DR. SIEMERS: Is it true that these dangers were recognized, not only by you and by military circles, but also by the governments in the twenties, especially by the Social Democrats and by Stresemann?

RAEDER: Yes. I already said that the government, too, realized that such an invasion could not be allowed to happen.

DR. SIEMERS: Now, the Prosecution has accused you of conduct contrary to international law and contrary to existing treaties, even in the time before Hitler.

On 1 October 1928 you became Chief of the Navy Command, and thus rose to the highest position in the German Navy. Did you, in view of the dangers you have described, use all your power to build up the German Navy within the framework of the Versailles Treaty, particularly with the object of protecting East Prussia?

RAEDER: Yes, I exerted all my strength for the reconstruction of the Navy, and I came to consider this as my life work. In all stages of this period of naval reconstruction, I met with great difficulties; and as a result, I had to battle in one way or another constantly throughout those years in order to put this reconstruction into effect. Perhaps I became rather one-sided, since this fight for the reconstruction of the Navy filled all my time and prevented me from taking part in any matters not directly concerned with it. In addition to material reconstruction, I put every effort into the formation of a competent officer corps and well-trained, especially well-disciplined, crews.

Admiral Dönitz has already commented on the result of this training of our men and officers, and I should like only to confirm that these German naval men earned full recognition in peace-time, both at home and abroad, for their dignified and good behavior and their discipline; and also during the war, when they fought to the end in an exemplary manner, in complete unity, with irreproachable battle ethics, and, in general, did not participate in any kind of atrocities. Also in the occupied areas to which they came, in Norway for instance, they earned full approval of the population for their good and dignified conduct.

DR. SIEMERS: Since for fifteen years you were head of the Navy and reconstructed it in those years, can it be said that as chief of the Navy you are responsible for everything that happened in connection with this reconstruction?

RAEDER: I am fully responsible for it.

DR. SIEMERS: If I am correct, the only qualification would be the date 1 October 1928.

RAEDER: As regards the material rebuilding.

DR. SIEMERS: Who were your superiors, as regards the reconstruction of the Navy? You could not, of course, act with complete independence.

RAEDER: I was subordinate, firstly, to the Reichswehrminister and, through him, to the Reich Government, since I was not a member of the Reich Government; and secondly, I also had to obey the Commander-in-Chief of the Wehrmacht in these matters. From 1925 to 1934 the Commander-in-Chief of the Wehrmacht was Reich President Field Marshal Von Hindenburg, and after his death on 1 August 1934, Adolf Hitler.

DR. SIEMERS: Mr. President, in this connection may I submit Exhibit Number Raeder-3, a short excerpt from the Constitution of the German Reich. It is Number Raeder-3, in Document Book 1 on Page 9. Article 47 reads:

"The Reich President has the supreme command of all the Armed Forces of the Reich."

I also submit the Reich Defense Law, as Exhibit Number Raeder-4, Document Book 1, Page 11. I have to return to it later, but now I refer to Article 8 of the Reich Defense Law, which reads as follows:

"The command is exclusively in the hands of the lawful superior.

"The Reich President is the Commander-in-Chief of all Armed Forces. Under him, the Reich Minister for Defense has authoritative powers over all the Armed Forces. At the head of the Reich Army is a General, as Chief of the Army Command; at the head of the Reich Navy, an Admiral, as Chief of the Naval Command."

These paragraphs remained in full effect under the National Socialist regime. I refer to them only because they confirm what the witness has said. In regard to naval reconstruction, he was thus third in authority: Reich President, Reich Minister of Defense, and then the head of the branches of the Wehrmacht.

Admiral, the Prosecution accuses you of building up the Navy: First, in violation of the Versailles Treaty; secondly, behind the back of the Reichstag and the Reich Government; and thirdly, with the intention of waging aggressive wars.

I should like to ask you now whether the reconstruction of the Navy was undertaken for aggressive or defensive purposes. Make a chronological distinction, however, and speak first about the period overshadowed by the Versailles Treaty, that is, from 1928 until the Naval Agreement with England on 18 June 1935.

My question is: Did the reconstruction of the Navy in this period take place for purposes of aggression as the Prosecution has asserted?

RAEDER: The reconstruction of the Navy did not in any respect take place for the purposes of aggressive war. No doubt it constituted some evasion of the Versailles Treaty. Before I go into

details, I should like to ask permission to read a few short quotations from a speech which I made in 1928 in Kiel and Stralsund, the two largest garrisons of my naval station. This speech was delivered before the public during a week devoted to an historical anniversary; and when I took up my duties in Berlin, it was handed as my program to Minister Severing, who regarded me with some suspicion at that time. That is the . . .

DR. SIEMERS: One moment. Raeder's statements in the year 1928 show his attitude of that time much more clearly than his present recollections; and for that reason I think the Tribunal will agree that I submit this speech as Exhibit Number Raeder-6, Document Book 1, Page 15. The speech itself begins on Page 17. I shall read . . .

THE PRESIDENT: Yes?

DR. SIEMERS: Mr. President, it would take five or ten minutes, so may I ask whether this is a proper time to adjourn? I am willing to continue, however.

THE PRESIDENT: We will adjourn.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

DR. SERVATIUS: Mr. President, will you please grant permission for the Defendant Sauckel to be absent from the courtroom from the sessions of the 16th to the 18th inclusive so that he may prepare his defense?

THE PRESIDENT: Be absent in order to prepare his defense? Yes, certainly.

MR. DODD: Mr. President, I would like to suggest that, before the witness Puhl is recalled, the witness Thoms be called. I think it will save some of the Tribunal's time. I think, from what I know of the prospective testimony, there may be questions that will arise in the mind of the Tribunal which it would like to put to the witness Puhl after having heard the witness Thoms.

And also I would ask, so as to be absolutely fair to all concerned, that the witness Puhl be in the courtroom when the witness Thoms testifies. I think he should have that opportunity.

THE PRESIDENT: Have you any objections, Dr. Sauter?

DR. SAUTER: No, I have no objections.

MR. DODD: May we call the witness Thoms?

THE PRESIDENT: Yes, call Thoms, and have Puhl somewhere in the courtroom where he can hear.

[The witness Thoms took the stand.]

THE PRESIDENT: Will you state your full name?

ALBERT THOMS (Witness): Albert Thoms.

THE PRESIDENT: Will you repeat this oath after me: I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing.

[The witness repeated the oath.]

THE PRESIDENT: You may sit down.

MR. DODD: Mr. President, I am aware that he has been called for cross-examination. However, there are one or two matters, now material, which were not included in the affidavit, and to save time I would like to bring those out before the cross-examination takes place.

THE PRESIDENT: Very well.

MR. DODD: Herr Thoms, you executed a statement on the 8th day of May 1946. Is that so?

THOMS: Yes.

MR. DODD: And you signed it?

THOMS: Yes.

MR. DODD: And everything in it was true?

THOMS: Yes.

MR. DODD: And is true now, of course?

THOMS: Yes.

MR. DODD: I wish you would just look at it for the purposes of certainty and identify it now. Is that the statement that you signed, Herr Thoms?

THOMS: Yes.

MR. DODD: All right. Now, I have one or two questions to ask you about it. I wish to offer it, Mr. President, as Exhibit USA-852. You know this gentleman sitting to your left, do you not?

THOMS: Yes.

MR. DODD: That is Mr. Puhl, is it not?

THOMS: Yes.

MR. DODD: He was the Vice President of the Reichsbank when you were employed there.

THOMS: Yes.

MR. DODD: Now, did you ever have a conversation with Herr Puhl about any special deposit which was coming to the Reichsbank and about which you should maintain the utmost secrecy?

THOMS: Yes.

MR. DODD: Tell us when that conversation took place, what was said, and if anyone else was present at the time.

THOMS: This conversation took place in the summer of 1942. I was called to Vice President Puhl's office by Herr Frommknecht, a Treasury official. Herr Frommknecht took me to Herr Puhl, and there Herr Puhl disclosed the fact that a special transaction with the office of the Reichsführer SS was to be undertaken. Do you want me to explain it in detail?

MR. DODD: Tell us everything that he said to you.

THOMS: Herr Puhl told me that the affair was to be kept absolutely secret and confidential. Not only would articles be delivered which would be automatically taken over in the ordinary course of business of the Reichsbank, but also the disposal of jewelry and other articles would have to be effected. Upon my objection that we had no expert men for such matters, he replied that we would have to find a way to convert these articles. First I made the suggestion that these special articles should then be sent to the Reich Main Treasury—that is, the Main Treasury of

the Reich Government—which also held all booty of the Army. However, Herr Puhl thought that this matter should not go through the Reich Main Treasury, but should be handled by the Reichsbank in some other way. Thereupon I suggested that these articles could be sent to the Municipal Pawnbroker's Office in Berlin, exactly as the deliveries from the confiscated Jewish property had been dealt with before. Herr Puhl agreed to this suggestion.

MR. DODD: Now, when did the first of these shipments arrive?

THOMS: The first delivery came to the Reichsbank during the month of August, as far as I can remember.

MR. DODD: 1942?

THOMS: 1942.

MR. DODD: Does the name Melmer mean anything to you?

THOMS: Melmer was the name of the SS man who subsequently brought these valuables to the Reichsbank. Under this code word all deliveries of the SS were later entered in the books of the bank.

MR. DODD: Did you ever mention the name or the word "Melmer" to Puhl, and did he ever mention it to you?

THOMS: The name "Melmer" was not mentioned by Vice President Puhl to me, but was mentioned by me to Vice President Puhl as I had to inform him about the start of the entire transaction and particularly about the carrying out of the transaction regarding the conversion of the valuables. In accordance with the suggestion of the office of the Reichsführer SS, the money equivalent was transferred to the Reich Ministry of Finance into an account which was given the name "Max Heiliger." I duly informed Vice President Puhl briefly about these facts.

MR. DODD: Did you ever tell Puhl the nature of the material that you were receiving in the SS shipments?

THOMS: After some months Vice President Puhl asked me how the "Melmer" affair was getting along. I explained to him that, contrary to the expectation that there would really be very few deliveries, deliveries were increasing and that apart from gold and silver coins they contained particularly a great deal of jewelry, gold rings, wedding rings, gold and silver fragments, dental gold, and all sorts of gold and silver articles.

MR. DODD: What did he say when you told him there were jewels and silver and dental gold and other articles?

THOMS: May I first of all add a few things. I drew his attention especially to the fact that on one occasion something like 12 kilograms of pearls had been collected and that I had never before seen such an unusual amount in all my life.

MR. DODD: Wait a minute! What was it?

THOMS: They were pearls and pearl necklaces.

MR. DODD: Did you also tell him you were receiving a quantity of eye-glass rims?

THOMS: I cannot swear to that at the moment, but I described the general character of these deliveries to him. Therefore, I think, I probably used "spectacles," and similar words; but I would not like to state it on my oath.

MR. DODD: Was Puhl ever in the vaults when this material was being looked through?

THOMS: On several occasions he visited the strong-rooms of the bank to inspect the gold stored there and particularly to inform himself about the type of stores. The deliveries of the "Melmer" transactions were kept in a special part of one of the main safes, so that on those occasions Herr Puhl must also have seen the boxes and sacks full of those deliveries. Nearby in the corridor of the vault the articles of the "Melmer" deliveries were being dealt with.

I am firmly convinced that when he walked through the strong-rooms, Herr Puhl must have seen these objects, as they were lying quite openly on the table and everyone who visited the strong-room could see them.

MR. DODD: There were about 25 or 30 people that sorted this stuff out, were there not, before it was shipped away for melting and for sale in the pawn shops?

THOMS: I would say that there were not 25 to 30 people who sorted these things—in the course of a day perhaps 25 to 30 people would visit the strong-rooms to carry out some official business there. For this particular business some four or five officials were occupied in sorting out the things, getting them ready.

MR. DODD: And everyone under your supervision was sworn to secrecy? They didn't talk about this business; they were forbidden to do so, were they not?

THOMS: There were strict instructions in the bank that secret matters must not be discussed, not even with a colleague of one's own department, if that colleague did not himself also work at the same job. So that . . .

MR. DODD: Well, this was a super-secret matter, wasn't it? It wasn't the ordinary secrecy that attended. Wasn't there a special secrecy surrounding these deliveries?

THOMS: Quite right. It was quite an exceptional affair and it had to be kept especially secret. I would say that it went beyond

the limits of top secrecy. For even I had been strictly forbidden to talk to anybody about it; and I said at the time when I left Vice President Puhl, after the first conversation, that I would however inform the leading officials in the Treasury, because after all my superiors must be informed about this business.

MR. DODD: Was there a report made about these "Melmer" deposits to the Directorate?

THOMS: No. The matter was treated as a verbal agreement. It was after all an exceptional case and only one account was kept of the deliveries made, which was called the "Melmer account." This account was transmitted by the head cashier's office to the foreign exchange department which, in turn, had to take further steps with the Directorate of the Reichsbank.

MR. DODD: Well, the Directorate had to approve the handling of this type of thing, did it not? You weren't allowed to handle materials like this without the approval of the bank Directorate?

THOMS: In matters concerning gold particularly instructions had to be given and approved respectively by the Board of Directors. I could therefore never act independently. Generally the instructions were given to the Treasury in writing and they were signed by at least two officials and one member of the Board of Directors. So that it was quite unique that in this case instructions were given in a verbal form.

MR. DODD: By the way, Herr Thoms, you have seen the film this noontime? We have shown you a film, haven't we?

THOMS: Yes.

MR. DODD: After seeing that film, are you able to say whether or not that represents a fair representation of the appearance of some of the shipments that were received by the Reichsbank from the SS?

THOMS: I may say that this film and the pictures which I have seen in it were typical of the "Melmer" deliveries. Perhaps I should qualify that by saying that the quantities shown in this film were in excess of the quantity of dental gold and particularly jewelry which came with the first deliveries. Only later did these amounts increase, so that the quantities which we have seen in this film had actually not yet been seen by the Reichsbank because they were contained in boxes or trunks which until then had remained locked. But generally the material which I have seen in that film is typical of the "Melmer" deliveries.

MR. DODD: All right, sir. Now, approximately—I don't expect a completely accurate answer, but approximately how many shipments did you receive of this stuff from the SS?

THOMS: As nearly as I can remember at the moment, there must have been more than 70 deliveries, possibly 76 or 77. I can't tell you exactly at the moment, but that must be about the right figure.

MR. DODD: Very well, I have no further questions.

DR. SAUTER: Witness, what is your occupation?

THOMS: A councillor of the Reichsbank.

DR. SAUTER: Where do you live?

THOMS: Berlin-Steglitz. Then I—after my home was bombed I lived at Potsdam, Neu-Fahrland.

DR. SAUTER: Did you volunteer for the examination of the Prosecution or how did you happen to be interrogated...

THOMS: I was...

DR. SAUTER: Please, will you wait until I have finished my question so that the interpreters can keep up with us? Will you please make a pause between question and answer.

THOMS: I was ordered here.

DR. SAUTER: By whom?

THOMS: Probably by the Prosecution.

DR. SAUTER: Are you a free man?

THOMS: Yes, I am free.

DR. SAUTER: Did you receive the summons in writing?

THOMS: No. I was asked orally yesterday in Frankfurt to come to Nuremberg.

DR. SAUTER: Frankfurt? Are you living in Frankfurt at the moment?

THOMS: Yes.

DR. SAUTER: Herr Thoms, where were you living on 8 May? That is a week ago today?

THOMS: On 8 May of this year?

DR. SAUTER: You are Herr Thoms, aren't you?

THOMS: Yes.

DR. SAUTER: Yes, on 8 May, a week ago today.

THOMS: In Frankfurt.

DR. SAUTER: You were interrogated there, weren't you?

THOMS: That is quite right. I was interrogated at Frankfurt.

DR. SAUTER: That is the affidavit which the Prosecutor has just put to you?

THOMS: Yes.

DR. SAUTER: How did you come to make the affidavit? Did you volunteer as a witness, or how did this happen?

THOMS: I want to point out to you that already a year ago when I was working at Frankfurt, I voluntarily gave the American offices the details of the transactions which were known to me in the matter of the gold of the Reichsbank.

DR. SAUTER: I see. So last year you already offered yourself as a witness?

THOMS: I wouldn't say as a witness in this matter. I merely placed myself at their disposal for the clarification of Reichsbank affairs for American purposes.

DR. SAUTER: Yes. Did you ever discuss this matter with the President of the Reichsbank, Funk?

THOMS: No. During my term of service, I never had an opportunity of talking to Minister Funk.

DR. SAUTER: Have you any positive knowledge, perhaps from some other source, as to whether President of the Reichsbank Funk had exact knowledge of these things, or is that also unknown to you?

THOMS: I cannot say anything about that either, because these matters happened on a higher level, which I could not judge.

DR. SAUTER: Then I would be interested in hearing something about this deposit, or whatever you call it, which was under the name "Melmer"?

THOMS: I want to point out that this was not a deposit, but that these were deliveries which were delivered under the name "Melmer." Insofar as the transactions were those which the Reichsbank had to deal with, the Reichsbank took over these articles directly, and insofar as it was a question of matters not pertaining to the bank, the Reichsbank to a certain extent was the trustee for the conversion of these things.

DR. SAUTER: More slowly, more slowly. Why was this matter, whether we call it a deposit or anything else, not dealt with under the name "SS," why was it given the name "Melmer"? Did you ask anybody about that, Witness?

THOMS: I have already mentioned at the beginning of the examination that this was a particularly secret affair in connection with which the name of the depositor was not to appear. In this case, therefore, it was Vice President Pühl who had to decide the way this affair was to be dealt with; and he desired and ordered this.

DR. SAUTER: Did only officials of the Reichsbank come to the strong-room where these things were kept, or did other persons also

have access to it, for instance, people who had a safe in the strong-room?

THOMS: The Reichsbank did not have any private depositors, that is to say, we did not have any locked deposits which belonged to customers of the Reichsbank—at least not in those vaults. Deposits from private customers were in another vault so that there was no contact between the deposits of the bank and the deposits of the customers.

DR. SAUTER: But quite a number of officials went down there. You have already said that.

There is one thing I am not clear about: On the one hand, you have told us that these articles were lying about openly on tables so that everybody could see them; and on the other hand, you said previously towards the end of your statement that these things were kept in locked boxes and trunks. How does that tally?

THOMS: I have stated that these things were delivered in closed boxes and trunks, and stored in them. When from time to time the deliveries were inventoried, the delivery which was to be dealt with naturally had to be opened and the contents counted, examined, and re-weighed. That, of course, could only be done by spreading out the contents, counting them, checking the weight, and then locking them in new containers.

DR. SAUTER: Did you perhaps on your own initiative tell Herr Puhl—after all, you were a bank councillor, therefore also a senior official—that you had misgivings about the whole business? Please think over the question and give your answer very carefully, because you are under oath.

THOMS: First of all, I have to say that I belonged to the group of officials of middle rank, but that is just in passing. Then, of course—or let me put it this way—when an official has worked for thirty years or longer for a concern and if throughout the long years of his career he has always had the feeling that the directors were irreproachable, then, I believe, he could have no misgivings if in a special case he is instructed to keep silent about a certain transaction. He would not object to carrying out this order. I have already said that the term "booty" was not unknown to us officials in the Reichsbank, because there was the order that all booty goods which came in from the Army were to be delivered directly to the Treasury, that is the Treasury of the Reich Government; and we in the Bank thought, of course, that the booty from the SS troops was to go through the Reichsbank. An official of the Reichsbank cannot very well oppose such an order. If the Directors of the Bank give him instructions, then he has to carry them out, because of the oath which he has sworn.

DR. SAUTER: So that, Witness, if I understand you correctly, you are telling us that at the beginning, at any rate, you considered that the matter was in order, and there was nothing wrong with it?

THOMS: At the beginning? As a matter of fact, I considered it correct that it should be carried right through.

DR. SAUTER: Did you ever have any doubts that this might be, let us say, criminal?

THOMS: Certainly I would have had doubts if I had had the knowledge and experience then which I have today.

DR. SAUTER: That is the same with everyone.

THOMS: Yes, quite right. As far as that is concerned, I had to suppress any doubts; I would not admit any doubts, because the affair was not known only to me, it was known to the Reichsbank Directorate and in the administration office of the Main Treasury. The valuables in the strong-room were checked every night by a deputy director of the Main Treasury, so that I was responsible only for the technical carrying out of this business; and the responsibility for the correctness of this transaction was not within my competence.

DR. SAUTER: I do not know about the responsibility but, Witness, I asked you, did you ever have any doubts, and at what precise moment did you consider the whole affair criminal? Did you consider it criminal?

THOMS: We assumed that these were goods which the SS—after they had partly burned down towns in the East, particularly in the battle for Warsaw—we thought that afterwards they captured this booty in the houses and then delivered this booty to our Bank.

DR. SAUTER: As booty?

THOMS: Yes. If a military department delivers booty goods it does not follow that an official who is entrusted with the handling of these things would have to consider these deliveries as being criminal.

DR. SAUTER: When taking over these articles, did you think, or did Vice President Puhl tell you, or at least hint to you, that these gold articles might have been taken from victims in the concentration camps?

THOMS: No.

DR. SAUTER: You did not think of that, did you?

THOMS: No.

DR. SAUTER: Not at all?

THOMS: Once we saw the name "Auschwitz," and another time the name "Lublin," on some slips of paper which we found. I said

that in connection with Lublin we found this inscription on some packets of bank notes which came in to be dealt with and which were then returned to the Polish Bank to be cashed. Strangely enough, the same packets came back later after they had been dealt with by the bank. Consequently, here the explanation was that these could not be deliveries from a concentration camp, since they had come to us through official bank channels. As regards the camp at Auschwitz—well, I cannot say today with what sort of deliveries these slips of paper were found, but it is possible that they were slips attached to some notes, and perhaps they may have been deliveries of foreign bank notes, from the concentration camps. But then there were arrangements according to which prisoners of war, or prisoners, could exchange their notes for other money in the camp, so that such deliveries could have been made through legal channels.

DR. SAUTER: If I understand you correctly, Witness, then, the meaning of what you have just told us is that you still considered the matter legal or lawful even when in 1943 you saw the inscription "Auschwitz" and "Lublin" on some items. Even then you considered the matter legal, didn't you?

THOMS: Yes.

DR. SAUTER: Well, then, why did you in your affidavit of 8 May 1946—it is true it is not a sworn affidavit—tell the story somewhat differently? Perhaps I can read the sentence to you . . .

THOMS: Please, do.

DR. SAUTER: . . . and you can then tell me if I misunderstood you or whether the official took it down incorrectly. It says there, after first of all saying that you considered the matter to be legal:

> "One of the first indications of the origin of these articles was when it was noticed that a packet of bills, presumably bonds . . ."

THOMS: No, they were bank notes.

DR. SAUTER: ". . . were stamped 'Lublin.' "

THOMS: This occurred early in 1943.

DR. SAUTER: "Another indication was the fact that some articles bore the stamp 'Auschwitz.' We all knew these places were the sites of concentration camps. In connection with the tenth delivery in November 1942"—that is, previously—"gold teeth appeared, and the quantity of gold teeth grew to an unusual extent."

So much for the quotation from your unsworn statement of 8 May 1946. Now, will you please tell us: Does that mean the same

as you said a little earlier, or does it mean something different in your opinion?

THOMS: That in my opinion tallies with my statement. We could not assume that deliveries which came through the concentration camp had to be absolutely illegal. We only observed that gradually these deliveries became larger. A delivery of notes from a concentration camp need not be illegal because of this. It might have been an official calling-in, especially as we did not know the regulations applicable to concentration camps. It would be perfectly possible that these people had the right to sell the articles in their possession or give them in payment.

DR. SAUTER: The dollars which you have also seen in that film would hardly be sold by anybody.

THOMS: May I point out to you that I was not of the opinion that these bank notes necessarily came from concentration camps. I merely said that the word "Lublin" was on some of the packets of bank notes. That might have pointed to their having come from a concentration camp; but it did not necessarily mean that these particular notes came from that concentration camp, and the same applies to "Auschwitz." The name "Auschwitz" cropped up. There may have been a certain suspicion, but we had not any proof, and we did not feel that we were in any way called upon to object to these deliveries of the SS.

DR. SAUTER: Consequently, Witness, apparently because you put this construction on it, you did not use the occasion to make a report to Vice President Puhl or the Directorate, or to voice any doubts; you did not have any cause for that?

THOMS: I called Vice President Puhl's attention to the composition of these deliveries as early as a few months after the arrival of the first delivery. Therefore, the general character of these deliveries was known to Herr Puhl. He knew the contents of the deliveries.

DR. SAUTER: But you told us earlier that the character of these deliveries did not seem peculiar to you. You considered that it was booty. And now you want to say that you called Vice President Puhl's attention to it and that he must have noticed something peculiar.

THOMS: I did not say that. I did not say that Herr Puhl must have noticed something peculiar. I merely said that, if any objections were to be raised, then they would have to come from Herr Puhl, since he was as well aware of the character of these deliveries as I was. And, if there was any suspicion, then Herr Puhl's suspicion would probably have been aroused more strongly than mine.

DR. SAUTER: Witness, you told us earlier that special secrecy was ordered in this connection, but at the same time you mentioned that quite apart from this SS affair, there were also other business matters which apparently had to be handled with special secrecy. Is that true?

THOMS: Yes.

DR. SAUTER: You need not give us any names, but I would only like to know what the other affairs were?

THOMS: These are matters which had to do with the conduct of the war. There were transactions in gold, and perhaps also in foreign currency, *et cetera.*

DR. SAUTER: They were not criminal affairs, therefore?

THOMS: No, not criminal.

DR. SAUTER: Then, Witness . . .

THE PRESIDENT: Dr. Sauter, the Tribunal thinks that this is getting too far away from the point really to ask him about other deliveries.

DR. SAUTER: Yes, but the question is already answered, Mr. President.

Witness, because of this secrecy in connection with the SS deliveries which reached the Reichsbank, I should be interested in knowing, insofar as they were realized by the Reichsbank, whether any accounts were rendered, as I assume to be the case from the documents before us?

THOMS: Yes.

DR. SAUTER: By your Main Treasury?

THOMS: Yes.

DR. SAUTER: To whom were these accounts sent?

THOMS: They were sent to the Reichsführer SS' office direct· that is to say, they were collected by Melmer directly from the bank.

DR. SAUTER: Did they not go to any other office?

THOMS: And then they were officially passed on to the Foreign Currency Department.

DR. SAUTER: To the Foreign Currency Department, that is, to a State Department?

THOMS: No, that is a department of the Reichsbank which in turn is the link with the Directorate.

DR. SAUTER: Were not these accounts also transmitted, or did they not go, to the Reich Ministry of Finance?

THOMS: The liaison man, Melmer, always received two accounts, that is, in duplicate. Whether the Reichsführer's office sent one copy to the Reich Ministry of Finance, I do not know.

DR. SAUTER: Were these accounts really treated confidentially, that is, kept secret?

THOMS: Yes.

DR. SAUTER: For instance, the accounts with the Municipal Pawn Broker's Office?

THOMS: In the account with the Municipal Pawn Broker's Office the depositor was not named.

DR. SAUTER: What happened to these gold teeth?

THOMS: They were melted down by the Prussian State Mint. The gold was then refined and the fine gold was returned to the Reichsbank.

DR. SAUTER: Witness, you said earlier that at the beginning of 1943 certain articles had arrived stamped "Auschwitz." I think you said at the beginning of 1943.

THOMS: Yes, but I cannot tell you the exact date now.

DR. SAUTER: You said "We all knew that there was a concentration camp there." Did you really know that as early as the beginning of 1943, Witness?

THOMS: Naturally, now I can . . .

DR. SAUTER: Yes, now of course, we all know it. I am talking about the time at which this happened.

THOMS: I cannot say that for certain. I made that statement on the strength—I beg your pardon, that is, probably—these deliveries were probably not handled until as late as 1945 or 1944 in the late autumn. It is possible that something about Auschwitz had already leaked out.

DR. SAUTER: Now, you said under Number 14 of your statement that one of the first clues to the source of these articles —apparently meaning the concentration camps—was the fact that a parcel of paper was stamped "Lublin." This was early in 1943. And another indication was the fact that some items bore the stamp "Auschwitz." "We all knew"—I've already emphasized this before for a very good reason—"we all knew that these places were the sites of concentration camps." That's your statement, and I now repeat the question. Of course we all know it now; but did you, Herr Reichsbank Councillor, know at the beginning of 1943 that there was this huge concentration camp at Auschwitz?

THOMS: No. To that positive type of question I must say no, I did not know it, but . . .

THE PRESIDENT: He did not say anything about a huge concentration camp at Auschwitz.

DR. SAUTER: No, that was a rhetorical exaggeration of mine. I said that we knew from the Trial that there was a huge concentration camp there.

THE PRESIDENT: Did he know it? Did he know that there was a huge concentration camp in 1943? He has not said so.

THOMS: I can answer "no" to your question, but this is the point: I assume that this slip marked "Auschwitz" came from a delivery which was probably made in 1943, but was not dealt with until much later; and I made that statement when I was already in Frankfurt, so that the name "Auschwitz" was familiar to me. I admit that there may be an exaggeration insofar as I did retrospectively tell myself that that was a concentration camp, you see. But I know that at the time, somehow, our attention was drawn to the name "Auschwitz," and I think we even asked a question about the connection; but we received no answer and we never asked again.

DR. SAUTER: Well then, Witness, I have one last question. The Prosecution has shown us the Document 3947-PS. I repeat, 3947-PS. Apparently this is the draft of a memorandum which some department in the Reichsbank seems to have prepared for the Directorate of the Reichsbank. It is dated 31 March 1944, and it contains the sentence on Page 2 which I shall read to you because it refers to Defendant Funk and to Defendant Göring. This is the sentence:

> "The Reich Marshal of the Greater German Reich, the Delegate for the Four Year Plan, hereby informs the German Reichsbank, in a letter of 19 March 1944, copy of which is enclosed,"—incidentally, the copy is not here, at least I have not got it—"that the considerable amounts of gold and silver objects, jewels, and so forth, at the Main Trustee Office East should be delivered to the Reichsbank according to the order issued by Reich Minister Funk"—the defendant—"and Graf Schwerin-Krosigk, Reich Finance Minister. The conversion of these objects should be accomplished in the same way as the 'Melmer' deliveries."

That is the end of my quotation.

Defendant Funk tells me, however, that he knew nothing about such instructions, and that such an agreement or such a letter was entirely unknown to him and that he did not know anything at all about the "Melmer" deliveries.

MR. DODD: I must object to the form of the question. I have objected before that it is a long story anticipating the answer to the question put to the witness. I think it is an unfair way to examine.

THE PRESIDENT: Dr. Sauter, you know, do you not, that you are not entitled to give evidence yourself? You are not entitled to say what Funk told you, unless he has given the evidence.

DR. SAUTER: Mr. President, this is not one of our witnesses This is a witness who has volunteered for the Prosecution.

THE PRESIDENT: Dr. Sauter, it is not a question of whose witness he is. You were stating what Funk told you, and you were not referring to anything that Funk had said in evidence, and you are not entitled to do that.

DR. SAUTER: As you were Reichsbankrat I should be interested to know whether you knew anything about these orders which are mentioned in the letter of 31 March 1944 from an office of the Reichsbank, and whether the Defendant Funk was concerned with this?

THOMS: I think I can remember that instructions actually did exist which stated that gold from the Main Trustee Office East should be delivered to the Reichsbank. I am not absolutely certain whether this sentence is from a note written by the Deputy Director of the Main Treasury, Herr Kropp, to the Directorate of the Reichsbank at the time. I am fairly certain that originally such instructions were actually given, but I want to point out that the Main Treasury through the Precious Metal Department was against accepting these valuables because technically they were not in a position permanently to assume responsibility for such considerable deliveries of miscellaneous articles. This instruction was cancelled later on through Herr Kropp's intervention. The deliveries from the Main Trustee Office East to the Reichsbank, especially to the Main Treasury, were not undertaken. I believe, however, I am right in saying that originally instructions of the type which you have just described did exist.

DR. SAUTER: Did you see that instruction yourself?

THOMS: I think that in the files of the Precious Metals Department, which are in the hands of the American Government, there will be carbon copies of these instructions.

DR. SAUTER: Was that instruction signed by the Defendant Funk?

THOMS: That I cannot say.

DR. SAUTER: Or by some other office?

THOMS: I really cannot tell you at the moment, but I cannot assume that it is the case because if the text reads, "from the Finance Minister and Herr Funk," then some other department must have signed.

DR. SAUTER: Mr. President, I have no further questions.

MR. DODD: May I ask one or two questions on re-direct examination.

THE PRESIDENT: Yes.

MR. DODD: Herr Thoms, there wasn't any exaggeration about the fact that you did find a slip of paper with the word "Auschwitz" written on it among one of these shipments, was there?

THOMS: No. I found the note.

MR. DODD: Now, I suppose you found lots of things among these shipments with names written on them. There must have been something that made you remember "Auschwitz," isn't that so?

THOMS: Yes.

MR. DODD: Well, what was it?

THOMS: I must assume—I mean that I know from my recollection that there was some connection with a concentration camp, but I cannot say. I am of the opinion that it must have happened later. It is really . . .

MR. DODD: Well, I don't care to press it. I just wanted to make perfectly clear to the Tribunal that you told us that you did remember "Auschwitz" and it had such a meaning for you that you remembered it as late as after the surrender of Germany. That is so, isn't it?

THOMS: Yes.

MR. DODD: I have no further questions.

THE TRIBUNAL (Mr. Biddle): You said there were about 77 deliveries, is that right?

THOMS: Yes, there were over 70.

THE TRIBUNAL (Mr. Biddle): How large were the deliveries? Were they in trucks?

THOMS: They varied in size. Generally they arrived in ordinary cars, but sometimes they arrived in trucks. It depended. When there were bank notes, for instance, the bulk was smaller and the weight was less. If it was silver or silver articles, then the weight was greater and a small lorry would bring it.

THE TRIBUNAL (Mr. Biddle): There were several lorries, or trucks, in each delivery, usually?

THOMS: No, the deliveries were not so large as that. There was at the most one truck.

THE TRIBUNAL (Mr. Biddle): And one other question: Do I understand you to say that these articles were transferred to new containers?

THOMS: Yes, they were put into ordinary bags by the Reichsbank. The bags were labeled "Reichsbank."

THE TRIBUNAL (Mr. Biddle): Bags marked with the Reichsbank's name on the bag?

THOMS: Yes, on which the word "Reichsbank" was written.

THE PRESIDENT: The witness can retire.

[The witness Puhl took the stand.]

THE PRESIDENT: Now, Dr. Seidl, do you want to ask the witness Puhl a few questions?

Witness, you remember that you are still on oath?

PUHL: Yes, Sir.

DR. SEIDL: Witness, in connection with Document 3947-PS, USA-850, I have several questions to put to you.

You heard earlier when the witness Thoms was examined that this letter contains a paragraph which refers to Reich Marshal Göring and which is connected with the Main Trustee Office East. Is it true that this Main Trustee Office was an office which had been established by a Reich law and that its right to confiscate had also been specifically outlined by Reich law?

PUHL: I cannot answer the second part of your question without looking it up since I am not a legally trained man. The Main Trustee Office East was an officially established office—whether by a law or by a decree, is something I cannot tell you at the moment.

DR. SEIDL: To your knowledge, did the Main Trustee Office East have any connection with the SS Economic Administration headquarters, that is to say, with the office of Pohl?

PUHL: I have never observed that.

DR. SEIDL: Is it obviously out of the question, at least when you read the letter, that the Main Trustee Office East and its deliveries could in any way be connected with the "Melmer" action?

PUHL: That very probably is so, yes.

DR. SEIDL: You mean there was no connection?

PUHL: That there was no connection.

DR. SEIDL: You mentioned this morning that among the business transactions which the Reichsbank handled very unwillingly were those with the Customs Investigation and the Currency Control Offices. The last part of this paragraph which refers to the Defendant Göring contains a sentence which refers to the conversion of objects of a similar type which were taken from the occupied western territories. Is it true that, particularly in the

occupied western territories, both the Currency Control Offices and the Customs Investigation Offices obtained rich booty?

PUHL: The total of the valuables which were brought in by both these offices is unknown to me. I rather doubt that it was extraordinarily big. However, they were fairly large sums, mostly, of course, in foreign currency.

DR. SEIDL: I have no further questions to the witness.

THE PRESIDENT: Mr. Dodd, do you want to ask him anything?

MR. DODD: After having heard Herr Thoms' testimony, do you wish to change any of your testimony that you gave this morning?

PUHL: No.

MR. DODD: And your affidavit that you gave under oath, do you wish to have it remain as it is?

PUHL: Yes.

MR. DODD: That is all I have.

THE PRESIDENT: Do you know who Kropp, who signed under the word "Hauptkasse" in the letter of 31 March 1944, Document 3947-PS, is?

PUHL: Herr Kropp was an official of our Treasury Department. He had a comparatively responsible position.

THE PRESIDENT: Of which department?

PUHL: The Treasury Department.

THE PRESIDENT: Thank you. The witness can retire.

[The witness left the stand.]

Dr. Siemers.

DR. SIEMERS: Admiral Raeder, will you come up to the witness stand?

[The Defendant Raeder took the stand.]

May I remind you that I put the basic question whether the construction of the Navy was to serve aggressive or defensive purposes.

The witness wishes to answer that question by referring to parts of the speech he made in 1928. It is Exhibit Number Raeder-6, Document Book 1, Page 5, and the speech itself begins on Page 17.

Please go ahead.

RAEDER: First of all, I want to say that Minister Severing, whom I had asked for as one of my witnesses, brought this speech along of his own free will, as he still remembers the year 1928.

DR. SIEMERS: Mr. President, this is to be found on Page 16 of the document book. It is Raeder's letter to Minister Severing,

dated 8 October 1928. Severing gave me this speech when he came to Nuremberg to appear as a witness.

RAEDER: I shall quote from Page 17, the fifth line from the bottom, to shorten the sentence somewhat for the interpreters:

> "The Armed Forces—I am speaking of course primarily for the Navy, but I know that today it is the same with the Army, because since 1919 its inner solidarity and training has been perfected with the greatest devotion and loyalty to duty—in their present structure, whether officer or soldier, in their present form of development and their inner attitude, are a firm and reliable support, I might even say, because of their inherent military might and in view of conditions within the Reich, the firmest and most reliable support of our German fatherland, the German Reich, the German Republic, and its Constitution; and the Armed Forces are proud to be that."

I then turn to Page 3, and it is the sixth line:

> "If, however, the State is to endure, this power must be available only to the constitutional authorities. No one else may have it; that is, not even the political parties. The Wehrmacht must be completely nonpolitical and be composed only of servicemen who, in full realization of this necessity, refuse to take part in any activity of domestic politics. To have realized this from the outset and organized the Wehrmacht accordingly is the great and enduring achievement of Noske, the former Reichswehrminister, whom the meritorious Minister Dr. Gessler followed on this road with the deepest conviction."

Then I talk about the composition of the Navy, and on the fourth page I continue, Line 7. Perhaps this is the most important sentence:

> "In my opinion, one thing is of course a prerequisite for the inner attitude of the serviceman, namely, that he is willing to put his profession into practice when the fatherland calls upon him. People who never again want war cannot possibly wish to become soldiers. One cannot take it amiss if the Wehrmacht infuses into its servicemen a manly and warlike spirit; not the desire for war or even a war of revenge or a war of aggression, for to strive after that would certainly in the general opinion of all Germans be a crime, but the will to take up arms in the defense of the fatherland in its hour of need."

Then I pass on to the last paragraph on Page 4.

"One must understand—for it is in accordance with the essence of the Wehrmacht—if it strives to be as far as possible in a position to fulfil its tasks, even under the conditions today, dictated by the limitation of the Versailles Treaty."

I then refer to the tasks of the small Navy, and that is on Page 5, second paragraph, Line 6.

"Consider the extent of the German coast line in the Baltic and North Sea, chiefly the Prussian coast line, which would be open to invasion and to the ravages of even the smallest maritime nation, had we not at our disposal modern mobile naval forces at least up to the strength permitted by the provisions of the Versailles Treaty. Above all, think of the position of East Prussia, which in the event of the closing of the Corridor would be wholly dependent on overseas imports, imports which would have to be brought past the bases of foreign nations and in the event of war would be endangered to the utmost, or even be made impossible if we were not in possession of fighting ships. I ask you to remember the reports about the effect of the visits of our training ships and of our fleet to foreign countries, when, already in 1922, the model conduct of our ship crews testified to an improvement in the internal conditions of the Reich, and increased considerably the esteem for the German Reich."

So much for this speech.

THE PRESIDENT: Since you are passing from that now, we might perhaps adjourn.

[A recess was taken.]

DR. SIEMERS: Admiral, hanging over this Trial are the words: "Wars of Aggression are Crimes."

We have just seen from your speech that, as early as January, 1928, you used these words, before the Kellogg Pact. In conclusion, I should like to ask you, did this principle of January 1928 remain your principle during the whole time of your command of the Navy?

RAEDER: Of course.

DR. SIEMERS: In connection with the Versailles Treaty, I should now like to submit an affidavit, because some figures are necessary here which are easier to present in writing than by interrogation. I shall submit Affidavit II by Vice Admiral Lohmann, Exhibit Number Raeder-8, Document Book 1, Page 39.

For the guidance of the Tribunal, so that there may be no misunderstanding, I should like to point out that Vice Admiral Lohmann has nothing to do with the Captain Lohmann who was well-known, almost famous, in the twenties.

The Tribunal may remember that the Lohmann affair was mentioned in connection with the breaches of the Versailles Treaty. Captain Lohmann died in 1930, and has nothing to do with the present author of this affidavit, Vice Admiral Lohmann. I also remind the Court that the Lohmann affair took place before Admiral Raeder was in charge of the Navy, before 1928.

I quote from the Lohmann affidavit the statement under Numeral I.

THE PRESIDENT: Are you wanting to call this Admiral Lohmann as a witness?

DR. SIEMERS: No, I did not name him as a witness; I was satisfied with an affidavit, because of the many figures. The British Prosecution has already agreed to the affidavit being submitted, but asked that Admiral Lohmann might be cross-examined. It was arranged between Sir David and myself.

THE PRESIDENT: I see, yes. You do not need to go into all these figures of tons, do you? You do not need to read all these, do you?

DR. SIEMERS: No. I did not want to read the individual figures. I would point out that this affidavit does not deal with tonnage; it concerns Number Raeder-8, Page 39.

THE PRESIDENT: Yes, I have got the one. There are a good many tons in it, though.

DR. SIEMERS: I should like to read under Numeral I:

"Under the Versailles Treaty, Germany was permitted to build eight armored ships. Germany, however, built only three armored ships, the *Deutschland,* the *Admiral Scheer,* and the *Graf Spee.*"—I will skip the following.

"II. Under the Versailles Treaty, Germany was permitted to build eight cruisers. Germany, however, built only six cruisers."

I shall omit the details according to the wish of the Tribunal.

"III. Under the Versailles Treaty, Germany was permitted to build 32 destroyers and/or torpedo boats. Germany, however, built only 12 destroyers and no torpedo boats."

According to this, in building up the Navy, Germany in no way took advantage of the possibilities of the Versailles Treaty, and if I understand correctly, she specifically omitted the construction of offensive weapons, namely, the large ships.

May I ask you to make a statement about this.

RAEDER: That is entirely correct. It is astonishing that at this period of time so little advantage was taken of the Versailles Treaty. I was reproached for this later when the National Socialist government came to power. They did not bear in mind, however, that the government at that time, and the Reichstag, were not inclined to let us have these ships. We had to fight hard for permission. But this failure to build up the Navy to the strength permitted has no relationship to the small breaches of the Versailles Treaty, which we committed mainly in order to build up, one could say, a pitiable defense of the coast in the event of extreme emergency.

DR. SIEMERS: I shall come back to Document C-32. It is established that during the time of the Versailles Treaty, Germany did not take advantage of the provisions of the Treaty, particularly in regard to offensive weapons. On the other hand, on the basis of the documents submitted by the Prosecution, it has been established and it is also historically known, that the Navy in building itself up committed breaches of the Versailles Treaty in other directions. I should like to discuss with you the individual breaches which were presented with great precision by the Prosecution. But first I should like to discuss the general accusation, which I have already mentioned, that these breaches were committed behind the back of the Reichstag and the Government.

Is this accusation justified?

RAEDER: Not at all. I must repeat that I was connected with these breaches only when on 1 October 1928, I became Chief of the Navy Command in Berlin. I had nothing to do with things which had been done previously.

When I came to Berlin, the Lohmann case, which you mentioned previously, had already been concluded. It was in the process of being liquidated; and the Reich Defense Minister Gröner, when the affair was first discovered, ordered the Army as well as the Navy to report to him all breaches which were in process; and from then on he was going to deal with these things together with Colonel Von Schleicher, his political adviser. He liquidated the Lohmann affair, and this liquidation was still in progress when I came there.

On 1 October 1928 he had already come to the decision to transfer the responsibility for all these evasions and breaches of the Versailles Treaty to the Reich Government, as a whole, at that time the Müller-Severing-Stresemann Government, since he believed that he could no longer bear the responsibility alone.

As a result on 18 October, when I had just become acquainted with these matters, he called a cabinet meeting to which the Chief of the Army Command, General Heye, and I, as well as some office chiefs in both administrations, were called. At this cabinet meeting,

General Heye and I had to report openly and fully before all the Ministers as to what breaches there were on the part of the Army and the Navy. The Müller-Severing-Stresemann government took full responsibility and exonerated the Reich Defense Minister, who, however, continued to be responsible for carrying things through. We had to report to the Reich Defense Minister everything which happened in the future and were not allowed to undertake any steps alone. The Reich Defense Minister handled matters together with the Reich Minister of the Interior, Severing, who showed great understanding for the various requirements.

DR. SIEMERS: At this cabinet meeting you and General Heye as Chief of the Army Command submitted a list of the individual small breaches?

RAEDER: Yes.

DR. SIEMERS: And thereupon the Government told you, "We will take the responsibility"?

RAEDER: Yes.

DR. SIEMERS: Accordingly, in the following years did you always act in agreement with the Reich Government?

RAEDER: Yes, the Reich Defense Minister, Gröner, was extremely sensitive on this point. He had dissolved all the so-called "black" funds which existed and insisted absolutely that he should know about everything and should sanction everything. He thought that only in this way could he take the responsibility towards the Government.

I had nothing whatever to do with the Reichstag. The military chiefs were not allowed to have contact with the members of the Reichstag in such matters. All negotiations with the Reichstag were carried out through the Reich Defense Minister or by Colonel Von Schleicher on his behalf. I was therefore in no position to go behind the back of the Reichstag in any way. I could discuss budget matters with the Reichstag members only in the so-called Budget Committee, where I sat next to the Reich Defense Minister and made technical explanations to his statements.

DR. SIEMERS: From 1928 on, that is from your time on, there were no longer any secret budgets within the construction program of the Navy without the approval of the Reich Government?

RAEDER: Without the approval of the Reich Government and, above all, of the Reich Defense Minister who allotted the money to us exactly as the other budgets were allotted.

DR. SIEMERS: May I ask the Tribunal in this connection to look at Document Exhibit Number Raeder-3 which has already been

submitted, "Constitution of the German Reich," Document Book 1, Page 10, Article 50; it is brief and reads:

> "In order to be valid, all decrees and orders issued by the Reich President, including those pertaining to the Armed Forces, must be countersigned by the Reich Chancellor or the competent Reich Minister. By the act of countersigning, responsibility is accepted by the Reich Chancellor."

That is the constitutional principle which the Reich Government at that time—Stresemann, Müller, Severing—insisted upon in October 1928.

An important part of the building up of the Navy consisted in renewing the old capital ships and cruisers from the last war. In this connection, I take the liberty of submitting to the Tribunal Exhibit Number Raeder-7, Document Book 1, Page 23. This document deals with the so-called ship replacement construction plan. This ship replacement construction plan was, as Page 24 of the document book shows, Paragraph 2, Figure 2, submitted by a resolution of the Reichstag. I should like to refer you to Page 24, Figure 3, of the document which shows that this ship replacement construction plan covered three armored ships, and it adds that the construction might last until 1938.

May it please the Tribunal, this figure is important. The Prosecution desired to construe the chance fact that in 1933 a construction plan was drawn up to extend until 1938, to mean that there were aggressive intentions.

This ship replacement construction plan of the year 1930 had the same goal in 1938 and, as the Prosecution will admit, can have nothing to do with a war of aggression.

The plan was submitted then, Witness, through the Reich Government and you did only the preparatory work?

RAEDER: Yes.

DR. SIEMERS: Is this only true of the ship replacement plan for 1930, or was it always handled in the same way in subsequent years?

RAEDER: The plan as submitted was approved in principle by the Reichstag. Each individual ship, however, had to be approved again in the budget plan of the year in which the construction was to begin. The whole construction program was thus always in close agreement with the Reich Government and the Reichstag.

DR. SIEMERS: In connection with this ship replacement program within the framework of the documentary evidence, I should like to refer to two points which will greatly shorten the questioning of the witness.

For the time being I do not want to quote from Page 26. I ask you to take judicial notice of the rest of the contents, and wish

merely to point out that this refers to the great age of all capital ships, and their replacement which this necessitated.

On Page 27 of the document book it expressly mentions that the Reichstag in its 89th session of 18 June 1929 asked the Reich Government for an extension of the period for the construction program. The general opinion at that time was, as the ship replacement program shows, set out in the *Frankfurter Zeitung* of 15 August 1928, where the *Frankfurter Zeitung* points out that an armored cruiser gains its full value only when it forms part of a squadron. The *Frankfurter Zeitung* was, as is well known, the best German newspaper; and it was banned only in 1943 during the war by the National Socialist dictatorship which was growing ever stronger.

I should like to refer to Page 29 and quote one sentence:

"The building of battleships will be extended as far as possible, so as to keep the naval yards at Wilhelmshaven occupied continuously. The ideal time of construction is about three years; and it is then explained that, working on the principle of giving as long employment as possible, the building time is prolonged as much as possible."

I believe this shows there was no aggressive intention, since otherwise the building program would have been speeded up.

Then I ask you to take judicial notice of Page 30, the construction cost of an armored ship having a tonnage of 10,000 tons, where it mentions that it was about 75 million marks. This figure is important to me as evidence in view of the further course of the testimony, where the cost of the breaches of the Versailles Treaty will be shown.

Finally may I quote from Page 30 a few lines which give the principle for the employment of the Wehrmacht. I quote:

"Since carrying out the disarmament program, which so far the German Republic alone among all the Great Powers has effected, for the Wehrmacht, which serves to protect the borders and peace, the following eventualities for the taking up of arms comes into consideration: (a) defense against the stealing of territories, (b) defense of neutrality in conflicts among third parties."

[Turning to the defendant.] I should like to refer to the individual breaches of the Treaty of which the Prosecution has accused you. In this connection, I submit Exhibit Raeder-1, in Document Book 1, Page 1, and I refer to Page 3, Article 191. It concerns the accusation that Germany, contrary to the Versailles Treaty, constructed submarines. Article 191 reads, and I quote, "The construction and acquisition of all submersible craft, even for commercial purposes, is forbidden to Germany."

I will soon put a question to you in regard to the established fact that the Navy was interested in a firm which dealt with the designing of submarines in Holland and in a general construction program for ships and submarines, which was being carried out in Holland; but in order to save time, it will be simpler if I read from the Lohmann affidavit which I submit as Exhibit Raeder-2, in Document Book 1, Page 4. I quote a short paragraph under 1:

"According to the Treaty of Versailles, the German Reich was neither to build nor to acquire U-boats. When in July, 1922, the firm N. V. Ingenieurskantoor Voor Scheepsbouw was established in the Hague, the Navy acquired an interest in it in order to keep informed on modern U-boat construction. The intention was to use the experience gained thereby for the German Navy, when later on the conditions of the Treaty of Versailles would be annulled by negotiations and Germany would be again permitted to build U-boats. Moreover, the Navy wanted, for the same purpose, to train a small nucleus of skilled personnel. The Dutch firm was strictly a designing bureau."

May it please the Tribunal, as a precaution I should like to point out in this passage that there is a translation mistake in the English copy. The word "Konstruktion" has been translated "construction," and construction means "building" in German. It was not a construction bureau. As far as I know, "Konstruktion" must be translated "design." Since in view of Article 191 this point is important, I want to correct this.

I quote further:

"The first German U-boat was commissioned 29 June 1935. The procuring of parts to build U-boats had started correspondingly earlier."

I wish to remind you that, when the first submarine was commissioned, the Anglo-German Naval Agreement, according to which submarine construction was permitted, was already in existence. I will ask if this statement of Admiral Lohmann is correct.

RAEDER: Yes. It entirely corresponds with the facts.

DR. SIEMERS: Then I come to Prosecution Document C-141, Exhibit USA-47. This is in the Raeder Document Book Number 10, on Page 22, in the compilation of the British Delegation. This is your letter of 10 February 1932 in regard to torpedo armament of the S-boats, the speed boats.

THE PRESIDENT: Is this in Document Book 10a or 10?

DR. SIEMERS: Document Book 10. The old document book.

THE PRESIDENT: I've got my pages wrongly marked somehow. It is all right.

DR. SIEMERS: Please excuse me. That is how the page numbers were given to me.

THE PRESIDENT: It is correct in the other members' books.

DR. SIEMERS: The torpedo armament of speed boats was not expressly permitted in the Versailles Treaty and for that reason you are accused in this connection. Did this involve only the five speed boats mentioned in this document?

RAEDER: Yes. There were five boats which we had ordered for use as patrol boats in the ship-building replacement program and which in themselves had no armament.

DR. SIEMERS: How big were these boats?

RAEDER: Certainly not bigger than 40 tons, probably considerably smaller.

DR. SIEMERS: Were more boats of this type built during the Versailles Treaty?

RAEDER: I cannot say with certainty. In any case, we had no armed boats in addition.

DR. SIEMERS: Yes, excuse me, that is what I mean—more armed boats.

RAEDER: No. We could build 12 plus 4, which makes 16 torpedo boats of 200 tons. A torpedo boat of 200 tons could not be produced in a practical manner at that time because of the question of the motors and the question of seaworthiness. For that reason we did not build these torpedo boats for the time being but kept in service a number of quite old torpedo boats, built at the beginning of the century, in order to be able to train crews with them. We could no longer use these boats for fighting. But so that—as long as we could not replace these boats—we might have a few boats capable of action, however small, which could be of use in blocking the Baltic, I ordered that these patrol boats should be equipped to take torpedo tubes on board.

However, so that in 1932 we should not make our situation worse by open breaches of the Treaty, when we hoped that at the Disarmament Conference we might make some progress, I had one boat at a time armed in order to fit and test the armament; and I then had the armament dismounted again so that there was always only one boat available with armament at any one time. We planned to put the torpedo tubes on board the speed boats only if the political situation, that is, the situation after the Disarmament Conference, would permit it. That is what I say in Number 3 in the concluding sentence.

DR. SIEMERS: I can take it then that we were allowed to build 16 torpedo boats making 3,200 tons in all?

RAEDER: Yes.

DR. SIEMERS: And instead we built only five speed boats totalling 200 tons?

RAEDER: Yes.

DR. SIEMERS: Concerning the accusation made by the Prosecution that you did not count the speed boats against the torpedo boats you actually did not intend to keep anything secret; but you wanted to discuss it with the Control Commission when the time came?

RAEDER: Yes.

DR. SIEMERS: Now I come to the most extensive document in regard to breaches which the Prosecution submitted, Document C-32, USA-50. The document is in Document Book 10a, Page 8; in the new document book of the British Delegation.

In this list all breaches are included under date 9 September 1933 The Prosecution justly points out that this compilation is very thorough; and the Prosecution presented it just as thoroughly, although, as I believe I can prove, they are, in the last analysis, small matters. I am compelled to ask the witness to answer these points in detail since they were brought up in detail. Breach Number 1 concerns the exceeding of the permitted number of mines. In Column 2 it states that according to the Versailles Treaty, that is, by the Commission, 1,665 mines were permitted; but we owned 3,675 mines. That is 2,000 too many. Will you please tell the Court the significance of this breach; it doubtlessly was a breach.

RAEDER: I should like to say in advance that this list was prepared for our Navy representative at the Disarmament Conference, so that if these things should be mentioned, he could give them an explanation. That is why it was so explicit, even though most of the things it contains are of minor importance. I should like to add to what I said previously, in regard to the danger of attacks by Poland, that in view of the political situation at that time we always feared that the Poles, if they should undertake an invasion of our country, might receive certain support from the sea by France, inasmuch as French ships, which at that time often visited the Polish port of Gdynia, could attack our coast through the Baltic entrances, the Belt, and the Sound. For this reason the defense of the Baltic entrances by mines played an important role. Thus, we undertook this breach of the Treaty in order to be able to close at least the Baltic entrances at the narrow points, which was of course possible only for a certain time. With these mines only a stretch of 27 nautical miles could have been closed. Thus, we would have been able to close a part of Danzig Bay on which Gdynia was situated, or a part of the Belt, by laying several rows of mines.

This was the only method which could be effective for any length of time. This was purely a question of defense, but still they exceeded the number of mines permitted from the war supplies still available.

DR. SIEMERS: Just now in the calculation of the 27 nautical miles you included the total number which Germany had at that time.

RAEDER: Yes.

DR. SIEMERS: Not just the number which exceeded that which was permitted?

RAEDER: No, the total.

DR. SIEMERS: So that the number in excess is only half this number?

RAEDER: Yes.

DR. SIEMERS: And then I should like to have an approximate comparison. I was told, by way of comparison, that the British in the first World War laid about 400,000 to 500,000 mines in the North Sea. Do you recall if this number is approximately right?

RAEDER: Approximately it may be right. I cannot say exactly from memory.

DR. SIEMERS: I believe the approximation suffices to give a picture of the relative values.

A second small question now. Is it true that for mining English ports Reich Marshal Göring's Luftwaffe in one action alone used 30,000 to 50,000 mines? Do you know of that?

RAEDER: I have heard so.

DR. SIEMERS: Then there is a second point. I quote, "Continuous storing of guns from the North Sea area for Baltic artillery batteries."

This involves 96 guns, only 6 of which are of large caliber, the others of smaller caliber. May I ask you to explain this breach of the Treaty?

RAEDER: This is quite a small breach. We were allowed a comparatively large number of guns on the North Sea coast. On the other hand, according to plans the Baltic coast was comparatively bare of guns, since they wanted to retain free entry to the Baltic, whereas we had the greatest interest in closing the Baltic against attacks. For this reason we stored the gun barrels, which belonged in the North Sea but which had been brought to the Baltic for repairs, in sheds in the Baltic area for a long time in order to be able to mount these guns on the Baltic coast in case of attack. The

North Sea coast had many guns; and because of the shallowness, it was much easier to defend than the Baltic coast. That was the breach.

DR. SIEMERS: In practice it only involved moving them from the North Sea to the Baltic coast. That is, not mounting them, but merely storing them.

RAEDER: Yes.

DR. SIEMERS: Then under Figure 3, another charge, "non-scrapping of guns." A total of 99 guns is mentioned of which the ten largest, of 28 centimeters, were actually scrapped. Please comment on this.

RAEDER: When we acquired new guns, as for example, for the battleship *Deutschland,* six 28-centimeter guns were constructed, or for the *Deutschland* and the cruisers, forty-eight 15-centimeter guns, we had to scrap a corresponding number of old guns. Ten of this number were actually scrapped. All the guns were turned over to the Army for scrapping and we received a receipt for them, saying that the guns had been scrapped. We learned, however, that the Army in fact had not scrapped the guns, but with the exception of the ten 28-centimeter guns, it intended to use them for arming the fortifications to be built in case of attack, since the Army had no such guns at all.

DR. SIEMERS: I should like to make the time clear. This must have been a breach of the Treaty which occurred long before the time you took office as Chief of the Navy Command.

RAEDER: This happened between 1919 and 1925 for the most part. In any case I had nothing to do with these matters.

DR. SIEMERS: Number 4 is very simple: "Deviation from the places settled by the Entente for the disposition of coastal batteries."

RAEDER: Previously, up to the time of the World War, especially the heavy batteries and the medium-sized batteries were placed very close to each other, or rather in the batteries the guns were placed very close to each other. According to our experience in the World War the heavy and medium-sized guns within the batteries were placed further apart, so that a single hit would not destroy several guns at once. For this reason we re-arranged these heavy and medium batteries and moved the guns a little further apart. For that reason they were no longer exactly in the places where they had been at the time of the Treaty. Otherwise nothing was changed.

DR. SIEMERS: Would not these things have been approved by the Control Commission because they were purely technical?

RAEDER: I cannot say, I never took part in these negotiations.

DR. SIEMERS: Number 5 concerns the laying of gun platforms for artillery batteries and the storing of A. A. ammunition. In

Column 2 there is again the question of changing to a different place than that allowed by the Entente. Does the same thing apply here as to Number 4?

RAEDER: No, not completely. We wanted to put the A. A. batteries where they were particularly useful and could be fully utilized, whereas the Commission did not want to have them at these places. As a result we left the A. A. batteries where they were; but at other points we prepared so-called gun platforms, which were improvised wooden platforms, so that in case of attack from any enemy we could set up the A. A. guns in order to use them most effectively. In the same way . . .

DR. SIEMERS: This is only a question then of platforms for an A. A. battery, only the foundations for a defense?

RAEDER: Yes, only foundations.

DR. SIEMERS: Then comes Number 6: "Laying gun platforms in the Kiel area."

RAEDER: The Kiel area was especially bared of guns, because the entrance through the Belt to Kiel was to be as little armed and as open as possible. For this reason the setting up of guns in the Kiel area was especially forbidden; and in order to be able to set up some guns in a hurry, in case of necessity, gun platforms were prepared there also.

DR. SIEMERS: The next point the Prosecution gives comes under Number 7: "Exceeding the caliber permitted for coastal batteries." "Coastal batteries" shows that it is for defense, but nevertheless it was brought up as an accusation.

RAEDER: Yes. It says here that instead of six 15-centimeter, three 17-centimeter guns were built. Of course, it is a deviation, insofar as the guns were to stay there; but it is open to doubt whether these six 15-centimeter guns might not have been better along the coast than the three 17-centimeter guns.

DR. SIEMERS: I see, you mean that they are actually less than the number permitted?

RAEDER: Yes.

DR. SIEMERS: Instead of five 15-centimeter there were only three 17-centimeter?

RAEDER: Instead of six.

DR. SIEMERS: Yes, instead of six only three, and the caliber was 2 centimeter larger.

RAEDER: Yes.

DR. SIEMERS: Then comes Number 8, the arming of M-boats. M-boats are mine sweepers.

RAEDER: We had the old mine sweepers which in case of attack on the Baltic were to serve the double purpose of finding the mines and of guarding the mine barrage which we wanted to lay in the exits of the Belt in order to close the Baltic, and of defending it against light enemy forces. For this reason we gave each one a 10.5-centimeter gun and one machine gun C-30.

DR. SIEMERS: Actually a minimum armament?

RAEDER: Yes, quite a minimum armament.

DR. SIEMERS: Number 9 can be quickly settled, I believe: "Arming of six S-boats and eight R-boats."

The six S-boats are those which were discussed in the Document C-141?

RAEDER: Yes, it says here boats armed with torpedoes.

DR. SIEMERS: Number 10: "Setting up practice A. A. batteries."

Is that a breach of the Treaty?

RAEDER: Yes, it was, after all, an A. A. battery. It was only because near the garrisons where there were barracks with our men we wanted an opportunity to practice A. A. firing exercise. That is why we set up these batteries near the barracks. There was no intention of using them in this place for defense. It was only a matter of expediency for training.

DR. SIEMERS: Then comes Number 11.

RAEDER: The individual cases are gradually becoming more ridiculous. I consider it a waste of time.

DR. SIEMERS: I am sorry, Admiral, that I must put you to this trouble; but I believe it is necessary, since the Prosecution read almost all these items into the record and wanted to put a construction on them which puts you at a disadvantage.

RAEDER: Then there is the "Salute Battery Friedrichsort."

Friedrichsort is the entrance to Kiel where foreign ships salute when they enter, and the salute must be returned. Two 7.7-centimeter field guns which had been rendered unserviceable had been approved for this purpose. With these guns, sharp-shooting was not possible; it was since there was a battery foundation already available there, that instead of these two 7.7-centimeter guns we should set up four 8.8-centimeter A. A. guns which were ready for full use. But this too was long before the time when I was Commander-in-Chief of the Navy.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 16 May 1946, at 1000 hours.]